

FACT SHEET
ETHANOL PETITION FOR RECONSIDERATION

ACTION

- On April 24, 2008, the Environmental Protection Agency (EPA) announced that it has issued a response to a petition by the Natural Resources Defense Council (NRDC) for reconsideration and request for a stay of the May 1, 2007, final rule on ethanol: “Prevention of Significant Deterioration [PSD], Nonattainment New Source Review [NSR], and Title V: Treatment of Certain Ethanol Production Facilities Under the ‘Major Emitting Facility’ Definition.” This response was sent to NRDC on March 27, 2008.
- In the May 1, 2007, final rule (“ethanol rule”) EPA increased the major source threshold of emissions from 100 to 250 tons per year (tpy) for determination of PSD applicability for certain ethanol production facilities. EPA also eliminated the requirement that fugitive emissions be included when determining whether a source is “major” under the PSD, nonattainment NSR, and Title V programs for certain ethanol producers.
- On July 2, 2007, the EPA received a Petition for Reconsideration and request for a stay from NRDC regarding the ethanol rule. Specifically, NRDC’s petition presents the following three objections to the ethanol rule:
 - (1) EPA’s findings on environmental consequences are arbitrary, capricious, and unlawful;
 - (2) EPA unlawfully failed to conduct a 302(j) rulemaking; and
 - (3) EPA unlawfully violated the Clean Air Act’s (CAA’s) anti-backsliding provision of Section 193
- EPA’s March 27, 2008, response to NRDC’s petition sets out the basis for EPA’s denial. In that response, EPA explains that the objections raised in NRDC’s petition do not trigger the requirement in 307(d)(7)(B) of the CAA to convene a proceeding for reconsideration. This is because each of the objections failed to meet one or both of the two statutory prerequisites to the reconsideration requirement – that objections raised were impractical to raise during the public comment period and are of central relevance to the outcome of the rule.
- In its March 27, 2008, response, EPA also denied NRDC’s request for a stay of the May 1, 2007, final rule. Given that EPA denied the petition for reconsideration in its entirety, a stay pending reconsideration is unnecessary.

FOR ADDITIONAL INFORMATION

- The March 27, 2008, response to NRDC and today’s notice of EPA’s decision denying NRDC’s petition may be found at EPA’s website at <http://www.epa.gov/nsr> under Regulations & Standards.
- The final ethanol rule published in the Federal Register on May 1, 2007 (72 FR 24060) is also available at EPA’s website at <http://www.epa.gov/nsr> under Regulations & Standards.

- Background information on the ethanol rulemaking is available either electronically at <https://www.regulations.gov>, EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located in the EPA Headquarters, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW, Washington, DC. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding Federal holidays.
 - Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Supporting information for this action can be accessed under Docket ID No. EPA-HQ-OAR-2006-0089.
- For general information about the petition for reconsideration or the final ethanol rule, please contact Joanna Swanson of EPA's Office of Air Quality Planning and Standards at (919) 541-5282, or swanson.joanna@epa.gov.