

# Proposed Reconsideration of New Source Review Permitting Program Rule on Aggregation

## Fact Sheet

### ACTION

- On March 29, 2010, the U.S. Environmental Protection Agency (EPA) proposed to reconsider the January 15, 2009 final rule that modified the New Source Review (NSR) air permitting program's policy on "Aggregation."
- EPA is proposing to revoke its final NSR Aggregation rule and requests comment on that action. After reviewing the issues raised in the National Resources Defense Council's (NRDC) petition, EPA is concerned that the final Aggregation rule may have introduced ambiguities that reduce the effectiveness of our policy on combining emissions from plant modifications.
- Aggregation refers to combining multiple, related physical or operational changes into a single project to determine whether a permit is required under the NSR program.
- The January 2009 rule for Aggregation directed facilities and permitting authorities to combine emissions from plant modifications only when those activities are "substantially related." In addition, the final rule specifies that:
  - For emissions to be aggregated, changes must have more in common than their timing of construction and the fact that the changes both support the overall basic function of the plant.
  - Plant modifications that are separated by 3 or more years will be presumed not to be substantially related.
- Early in 2009, EPA announced it would grant reconsideration of the final rule on NSR Aggregation in response to a January 30, 2009, petition for reconsideration from the Natural Resources Defense Council (NRDC). Today's proposal responds to the petition by requesting comment on the range of legal and policy issues presented by NRDC.
- Today's rule also proposes to extend the effective date of the NSR Aggregation rule for an additional six months, to allow time to complete the reconsideration proceeding. The new effective date would be November 18, 2010. EPA solicits comment on the additional stay. EPA also solicits comment on longer extensions of the stay.
- EPA will accept comment on this proposal for 30 days after publication in the Federal Register.

## **BACKGROUND**

- Congress established the New Source Review (NSR) program as part of the 1977 Clean Air Act Amendments and modified it in the 1990 Amendments. NSR is a preconstruction permitting program that serves two important purposes.
  1. It ensures the maintenance of air quality standards when factories, industrial boilers and power plants are modified or added. In areas that do not meet the national air quality standards, NSR ensures that new emissions do not slow progress toward cleaner air. In areas that meet the standards, especially pristine areas like national parks, NSR's PSD permitting program ensures that new emissions keep air quality within protective air quality standards.
  2. The NSR program ensures that state of the art control technology is installed at new plants or at existing plants that are undergoing a major modification.

## **HOW TO COMMENT**

EPA will accept comment on the proposal for 30 days after publication in the Federal Register. Comments, identified by Docket ID No. EPA-HQ- OAR-2003-0064, may be submitted by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the online instructions for submitting comments.
- E-mail: Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- Fax: Fax your comments to: (202) 566-1741
- Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, 1301, Constitution Ave., NW, Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

## **FOR MORE INFORMATION**

- To download a copy of this notice, go to EPA's Web site at: <http://www.epa.gov/nsr>.
- Today's proposed action and other background information are also available electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system. The docket number for this action is Docket ID No. EPA-HQ-OAR-2003-0064.
- For more information on this proposal , contact Dave Svendsgaard at (919) 541-2380 or [svendsgaard.dave@epa.gov](mailto:svendsgaard.dave@epa.gov).