

NEW SOURCE REVIEW RECONSIDERATION

FACT SHEET

ACTION

- On July 25, 2003, the Environmental Protection Agency (EPA) announced that it will reconsider parts of the New Source Review (NSR) rule finalized on December 31, 2002. That rule implemented a series of reforms to the NSR program.
- The reforms were aimed at providing regulatory certainty, and at removing barriers for industrial facilities to improve environmental performance through emissions reductions, pollution prevention and improved energy efficiency.
- Certain environmental groups and state and local governments petitioned EPA to reconsider specific aspects of the final NSR reform rule. This notice responds in part to those petitions by granting reconsideration and by requesting comment on six limited areas. EPA will take action on the remaining issues raised by the petitioners at a later date. EPA has not yet acted on the remaining issues but plans to make a decision within the time period it takes to reconsider the six items EPA has agreed to address.
- EPA's decision to reconsider these six limited issues in the rule does not mean that EPA has decided to change any aspect of the rule at this time. EPA is, however, soliciting comments on these six issues and will make a final decision about whether to change anything in these six areas after the close of the comment period
- EPA is soliciting comments on the following six areas relating to the December rulemaking:
 1. EPA's report titled: "Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules," which concluded that the NSR improvement rule likely will result in greater environmental benefits than the prior program.
 2. The decision to allow certain sources of air emissions to maintain "Clean Unit" status after an area is redesignated from "attainment" to "nonattainment" for one of the six common air pollutants regulated by EPA (ozone, particulate matter, nitrogen dioxide, sulfur dioxide, carbon monoxide and lead);
 3. EPA's inclusion of the "reasonable possibility" standard as it pertains to the need to maintain records and file certain reports when projecting actual emissions following a physical or operational change;
 4. The method for assessing air emissions from process units built after the 24-month baseline period used to establish Plantwide Applicability Limit (PAL) emission limits;

5. The decision to allow a PAL to supersede existing emissions limits established for NSR applicability purposes. Compliance with the PAL is then used to determine if NSR requirements apply in the future; and
 6. The method of measuring emission increases when existing emission units are replaced.
- EPA's areas of reconsideration listed above address certain aspects of the following reforms:
 - ✓ Clean Units - In the December 2002 final rule, EPA encouraged the installation of state-of-the-art air pollution control by creating a new provision to determine when NSR applies for "clean units."
 - ▶ To be deemed "clean," the unit must have installed state-of-the-art pollution controls. Facilities with recent NSR permits automatically qualify.
 - ▶ Under the new rule, owners of "clean units" can make changes to these units without going through the NSR permitting process so long as their emissions stay within permitted limits.

This reconsideration notice requests comments on retaining the "clean unit" status when it is determined that an area does not meet air quality standards after clean unit status is achieved.

- ✓ Emissions Test - Industry owners/operators must determine if physical or operational changes cause air emissions to increase. If the increase caused by the change is large enough to meet EPA-defined significance levels, then an NSR permit is needed.
 - ▶ The December 2002 final rule provided that emission increases associated with a change may be determined using the future actual emissions methodology.

This notice requests comment on two features of this test: whether plants should have to keep records relating to this test only if there was a reasonable possibility that the change they made could lead to an emissions increase; and whether the test should apply to replacement emissions units.

- ✓ Plant-wide Applicability Limits (PALs) - In the December rule, EPA finalized a 1996 proposal to allow industrial facility owners to obtain a plantwide cap on air emissions or "PAL."

- ▶ Under a PAL, EPA treats air pollutants emitted by a facility as a whole rather than smokestack-by-smokestack or unit-by-unit. A PAL is analogous to acting as if there is a bubble around the facility. To set a PAL, a facility must accept stringent plant-wide emissions caps. In return, the facility could then make changes without obtaining a major NSR permit, provided emissions do not exceed the plant-wide cap.

As part of this reconsideration, EPA will accept and consider comment on two issues relating to PALs: the treatment of new units built after the PAL baseline and the handling of certain unit-based emissions limits that pre-dated the PAL.

- EPA will accept comments on these six areas for 30 days after publication of this notice in the *Federal Register*.
- The Agency also plans to hold a public hearing to accept oral testimony on these areas of reconsideration August 14, 2003, at the Sheraton Imperial Hotel & Convention Center in Research Triangle Park, N.C. For information on the hearing, please go to EPA's NSR web site at www.epa.gov/nsr.

ADDITIONAL INFORMATION

- Interested parties can download information on the NSR Reconsideration from EPA's Web site at: www.epa.gov/nsr. EPA's Office of Air and Radiation's homepage on the Internet contains a wide range of information on air pollution programs and issues. The address is: www.epa.gov/oar/.
- Today's reconsideration notice, the final rule, Supplemental Environmental Analysis and other technical support documents are also available through the EPA's Air and Radiation Docket and Information Center (Docket Number OAR-2001-004 or legacy number A-90-37) by calling (202) 2566-1742 or fax (202) 566-1741 (a reasonable fee may be charged for copying).
- Written comments on the six areas of reconsideration should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number OAR-2001-004 (Legacy Number A-90-37), U. S. Environmental Protection Agency, Air and Radiation Docket and Information Center, (MC-6102T) Room B-108, EPA West Building, 1301 Constitution Avenue, Washington, D.C. 20460. Please also send a separate copy to Pamela S. Long, Office of Air Quality Planning and Standards, ITPID (C339-03), Research Triangle Park, North Carolina 27711; facsimile number (919) 541-5509; electronic mail address long.pam@epa.gov.
- If you are submitting proprietary information, you must clearly distinguish it from other comments and clearly label it confidential. To ensure proprietary information is not released or inadvertently placed in the public docket, send such information directly to: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

- You also may submit comments electronically. For instructions, please visit EPA's New Source Review web site at www.epa.gov/nsr.

NEW SOURCE REVIEW BACKGROUND

- Congress established the New Source Review program as part of the 1977 Clean Air Act Amendments and slightly modified it in the 1990 Amendments. NSR is a preconstruction permitting program that serves two important purposes:
 - ▶ First, it ensures that air quality is not significantly degraded by the addition of new and modified large emitting factories, industrial boilers and power plants. In areas with unhealthy air, NSR assures that new emissions from large emitting facilities do not slow progress toward cleaner air.
 - ▶ Second, the NSR program assures people that any large emitting new or modified industrial source in their neighborhoods will have good air pollution controls.
- Over time, the NSR program has become continually more complex and it has not kept pace with industry's needs to make rapid changes in order to stay competitive in the marketplace. EPA has worked for nearly 10 years to improve the NSR rules to provide flexibility for industry in making changes to their facilities, while ensuring environmental protection.
- In 1992, EPA issued a regulation addressing issues regarding NSR at electric utility steam generating units making major changes. This is referred to as the "WEPCO" rule.
- In 1996, EPA proposed to make changes to the existing NSR program that would significantly streamline and simplify the program. (Proposed rules are available at www.epa.gov/ttn/oarpg/t1pfpr.html [04/03/96].)
- Following the 1996 proposals, EPA held two public hearings and more than 50 stakeholder meetings. Environmental groups, industry, and state, local and federal agency representatives participated in these many discussions. EPA requested additional comment on selected issues in July 1998.
- EPA revised the NSR program on December 31, 2002. The final and proposed NSR rules and associated materials are located on EPA's Web site at: www.epa.gov/nsr
- In response to the December actions, EPA received petitions requesting the Agency to reconsider numerous issues and is now granting reconsideration and soliciting public comment on a limited number of these issues. EPA is providing further opportunity for comment on a limited range of issues raised by the rule. The Agency will make a final decision on whether to make any changes after examining the comments it receives.

- EPA's improvements to the NSR program are the result of more than a decade of review, a review that has spanned three Presidential administrations and has benefited from the expertise of state and local government officials of both political parties, the environmental community, business leaders, and a host of other stakeholders.