

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR 51 and 52

[EPA-HQ-OAR-2001-0004; FRL-]

RIN 2060-AM45

**Prevention of Significant Deterioration and Nonattainment Area New Source Review:
Reasonable Possibility in Recordkeeping; Notice of Action Denying Petition for
Reconsideration and Denying Request for Stay**

AGENCY: Environmental Protection Agency

ACTION: Notice of Action Denying Petition for Reconsideration and Request for a Stay.

SUMMARY: The EPA is providing notice that it has responded to a petition for reconsideration of the final rule published December 21, 2007, entitled “Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping.” The final reasonable possibility rule identifies for sources and reviewing authorities the criteria under which an owner or operator of a major stationary source undergoing a physical change or change in the method of operation that does not trigger major new source review (NSR) permitting requirements must keep records. The “reasonable possibility” standard also specifies the recordkeeping and reporting requirements on such sources.

On February 20, 2008, EPA received a petition for reconsideration from the State of New Jersey (“New Jersey”). The New Jersey petition also requested that EPA stay effectiveness of the final rule pending reconsideration of the rule.

The New Jersey petition for reconsideration can be found in the rulemaking docket. The EPA considered the petition and the information in the rulemaking docket in reaching a decision

on the petition. The EPA Administrator Stephen L. Johnson denied the petition for reconsideration and the request for a stay of the rule in a letter to the petitioner dated January 14, 2009. The letter documents EPA’s reasons for the denial and can be found in the rulemaking docket.

FOR FURTHER INFORMATION CONTACT: Carrie Wheeler, Office of Air Quality Planning and Standards, Air Quality Policy Division (C504-05), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-9771; fax number: (919) 541-5509; email address: wheeler.carrie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How Can I Obtain Copies of this Document and Other Related Information?

This Federal Register notice, the petition for reconsideration, and the letter denying the petition for reconsideration and the request for a stay of the rule during the reconsideration are available in the docket that EPA established for the Prevention of Significant Deterioration and Non-Attainment Area New Source Review: Reasonable Possibility in Recordkeeping rulemaking (Docket number EPA-HQ-OAR-2001-0004). The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA’s response, and the document identification number for EPA’s response. Note that all the document numbers listed in the table are in the form of “EPA-HQ-OAR-2001-0004-xxxx.”

Petitioner	Date of petition to EPA	Petition: Document No. in Docket	Date of EPA response	EPA response: Document No. in docket
State of New Jersey.....	2/15/2008	0849	1/14/2009	-0852

The docket for EPA’s denial of New Jersey’s petition for reconsideration is Docket ID No. EPA-HQ-OAR-2001-0004. All documents in the docket are listed on the

<http://www.regulations.gov> Web Site. Although listed in the index, some information may not be publicly available, i.e., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2001-0004, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

Page 4 of 4 - Prevention of Significant Deterioration and Nonattainment Area New Source Review: Reasonable Possibility in Recordkeeping; Notice of Action Denying Petition for Reconsideration and Denying Request for Stay

In addition to being available in the docket, an electronic copy of this notice of EPA's decision denying New Jersey's petition for reconsideration and request for stay of the rule pending reconsideration and of EPA's response letter to the State of New Jersey outlining the reasons for the denial will also be available on the World Wide Web. Following signature by the Principal Deputy Assistant Administrator, Office of Air and Radiation, a copy of this notice will be posted on EPA's New Source Review Web Site, under Regulations & Standards at <http://www.epa.gov/nsr>.

II. Judicial Review

Under CAA section 307(b), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE NOTICE IN THE FEDERAL REGISTER]**.

Dated:

Robert J. Meyers,
Principal Deputy Assistant Administrator.