

FINAL RULE TO IMPROVE THE ROUTINE MAINTENANCE, REPAIR AND REPLACEMENT EXCLUSION UNDER EPA'S NEW SOURCE REVIEW PROGRAM

FACT SHEET

ACTION

On August 27, 2003 the U.S. Environmental Protection Agency (EPA) issued a final rule that creates a category of activities that automatically will be considered routine maintenance, repair and replacement (RMRR) under the New Source Review (NSR) permitting program.

The final rule preserves the public health protections provided by the Clean Air Act through the National Ambient Air Quality Standards, while removing disincentives for owners and operators of power plants and manufacturing facilities to undertake RMRR activities that would improve safety, reliability and efficiency of their plants. It would not allow power plants to increase their emissions past their current Clean Air Act limits. This rule will have little or no impact on emissions.

NSR is one of the many tools to ensure the air quality goals are met. The key provisions of the Clean Air Act include programs designed to protect human health and the environment from the harmful effects of air pollution. The final rule does not alter these protections. CAA programs such as the National Ambient Air Quality Standards (NAAQS), the Acid Rain program, and the NOx SIP Call will ensure that the nation's air quality will continue to improve.

States implement source-specific emission limits through State Implementation Plans and states may also set more stringent requirements than those set forth in the final rule, if further controls are needed.

- Members of Congress from both parties, state and local government officials, labor unions and industry groups have long expressed the belief that the NSR program is unnecessarily complicated and often serves as an unnecessary obstacle to environmentally beneficial projects.
- This rule will improve the safe, reliable and efficient operations of the energy and manufacturing facilities by removing a significant impediment to the replacement of damaged or deteriorating parts. EPA's rule will provide certainty as to when equipment replacements automatically are excluded from NSR requirements, and when further review may be necessary.
- Equipment replacement activities will be excluded from NSR review if they meet the requirements outlined in the final rule. Alternatively, facility owners or operators may choose to use the current case by case approach to determine whether an equipment replacement activity is excluded.

- Under this rule, an equipment replacement activity automatically will be excluded from NSR requirements if:
 - it involves replacement of any existing component(s) of a process unit with an identical or functionally equivalent component(s);
 - the fixed capital cost of the replaced component, plus the costs of any repair and maintenance activities that are part of the replacement activity (such as labor, contract services, major equipment rental, etc.), does not exceed 20 percent of the replacement value of the entire process unit;
 - the replacement(s) does not change the basic design parameters of the process unit; and
 - the replacement(s) does not cause the unit to exceed any emissions limits.
- The rule allows sources to use the following approaches to determine the replacement value of a new process unit:
 - replacement cost; invested cost, adjusted for inflation;
 - the insurance value of the equipment, where the insurance value covers complete replacement of the process unit; or
 - another accounting procedure, based on Generally Accepted Accounting Principles.
- In addition, the final rule also:
 - defines a “process unit;”
 - specifically delineates the boundary of a process unit for certain specified industries;
 - defines a “functionally equivalent” component; and
 - defines how an owner or operator establishes basic design parameters for electric utility steam generating units and for other types of process units.

BACKGROUND

- Congress established the New Source Review 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.

- First, it ensures the maintenance of air quality standards when factories, industrial boilers and power plants are modified or added. In areas with unhealthy air, NSR assures that new emissions do not slow progress toward cleaner air. In areas with clean air, especially pristine areas like national parks, NSR assures that new emissions fall within air quality standards.
- Second, the NSR program assures that state of the art control technology is installed at new plants or at existing plants that are undergoing a major modification.

FOR ADDITIONAL INFORMATION

- Interested parties can download information on today's rule from EPA's Web site at: www.epa.gov/nsr. EPA's Office of Air and Radiation's homepage contains a wide range of information on air pollution programs and issues. The address is: www.epa.gov/oar/.
- The notice and technical support document are also available through the EPA's Air and Radiation Docket and Information Center (E-Docket Number A-2002-0068 and Legacy docket No. A-2002-04) by calling (202) 260-7548 or faxing (202) 260-4000 (a reasonable fee may be charged for copying), or by visiting our docket website at www.epa.gov/edocket/.