

FACT SHEET

AMENDMENTS TO STANDARDS OF PERFORMANCE FOR GRAIN ELEVATORS

ACTION

- On June 27, 2014, the Environmental Protection Agency proposed amendments to the new source performance standards (NSPS) for Grain Elevators. A grain elevator receives, stores, weighs, and transfers grain. The Clean Air Act requires grain elevators with certain storage capacities to comply with these standards of performance.
- EPA is proposing these amendments based on its 8-year review of the NSPS required by the Clean Air Act and in response to issues raised by the industry related to the treatment of temporary storage.
- EPA is proposing to clarify certain definitions and provisions in the existing requirements. The Agency also is proposing to add a new section to the rule that would include requirements only for grain elevators where construction, modification, or reconstruction begins after the date this proposal is published in the *Federal Register*.
- The proposed new section of the NSPS would include:
 - new emission limits for certain grain elevators;
 - additional testing, monitoring, recordkeeping, and reporting requirements; and
 - different compliance requirements for periods of startup, shutdown, and malfunction, including.
- EPA also is proposing an additional method for determining to which facilities the rule would apply. Some storage containers at an elevator are “temporary storage”. They hold grain for short periods of time before it is shipped out for use or for longer term storage. EPA is proposing to count temporary storage capacity at approximately one-third of traditional permanent storage capacity for determining rule applicability.
- In several prior rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility. On April 18, 2014, the United States Court of Appeals for the District of Columbia Circuit vacated these provisions in the New Source Performance Standards for Portland cement. (NRDC v. EPA, No. 10-1371). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the Clean Air Act, the authority to determine civil penalty amounts lies exclusively with the courts, not the EPA. In light of NRDC, the EPA is not including a regulatory affirmative defense provision in this rulemaking.
- EPA estimates that these amendments would reduce emissions of coarse particle pollution by 31 tons per year.

- EPA estimates that the capital costs for the upgraded monitoring and testing proposed in these amendments would have capital costs of \$970,000 and an annual cost of \$1.1 million per year across facilities in this industry.
- EPA will accept comment on this proposed rule for 90 days after it is published in the *Federal Register*.

BACKGROUND

- Under the Clean Air Act, EPA is required to set new source performance standards. These standards are national air emission standards that limit the amount of air pollution from new sources or modified existing sources.
- The primary purpose of these requirements is to help areas attain and maintain national air quality standards by ensuring that the best demonstrated emission control technologies are installed when it is most cost effective; this occurs as new facilities are updated and existing facilities are updated or expanded.
- There are approximately 900 grain elevators in the US that are subject to the current NSPS which controls emissions of particle pollution from a number of points at these facilities.
- In 1978, EPA established “Standards of Performance for Grain Elevators” (August 3, 1978, 43 FR 34347). Since then, EPA has conducted one review of the standards, and issued minor clarifying revisions to the NSPS in 1984. (March 27, 1984, 49 FR 11750).
- In November 2007, EPA’s Enforcement Office issued a letter indicating that temporary storage should be counted toward storage capacity when determining if the NSPS for grain elevators would apply to a facility.
- In May 2010, the industry petitioned EPA to reconsider and rescind this determination. In February 2012, the industry also petitioned EPA to remove this source category from the list to be controlled under New Source Performance Standards and to repeal the existing requirements.

HOW TO COMMENT

- Comments, identified by Docket ID No. EPA-HQ-OAR-2010-0706, may be submitted by one of the following methods:
 - www.regulations.gov: follow the on-line instructions for submitting comments.
 - Email: Comments may be sent by electronic mail (email) to: a-and-r-Docket@epa.gov.
 - Fax: Fax your comments to: (202) 566-9744.
 - Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

- Hand Delivery or Courier: Deliver your comments to: Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW, Room 3334, Washington, DC 20004. 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 the final action from the EPA website, go to "Recent Actions" at the following address: <http://www.epa.gov/ttn/atw/eparules.html>.
- Today's final rule amendments and other background information are also available either electronically at <http://www.regulations.gov>, the 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.
 - Materials for this action can be accessed using Docket ID EPA-HQ-OAR-2010-0707.
- For further information about the final rules, contact Bill Schrock of the EPA's Office of Air Quality Planning and Standards at (919) 541-5032 or schrock.bill@epa.gov.