

FACT SHEET

FINAL ACTION: RECONSIDERATION OF EPA'S INTERPRETATION OF PROJECT AGGREGATION UNDER THE NEW SOURCE REVIEW PERMITTING PROGRAM

ACTION

- On November 7, 2018, the U.S. Environmental Protection Agency (EPA) completed a reconsideration of a January 2009 action to clarify “project aggregation” under the major New Source Review (NSR) permitting program.
- The 2009 action had clarified EPA’s interpretation of when physical or operational changes should be combined into a single “project” for analysis of major NSR applicability. EPA’s primary focus in formulating criteria for “project aggregation” has been to ensure that major NSR is not circumvented through some artificial separation of activities that are reasonably seen as a single project.
- The 2009 action did not amend any regulatory text; rather, it retained the existing major NSR rule text for the term “project” and explained that EPA’s interpretation was that physical and/or operational changes should be combined into a single project for consideration of major NSR applicability when those changes are “substantially related.” In characterizing the substantially related criterion, the EPA further explained that:
 - a source need not group changes based on timing alone,
 - changes are not required to be aggregated simply because they support the plant’s overall basic purpose, and
 - EPA would apply a policy of presuming that changes separated by three or more years are not substantially related, unless the specifics of the activities rebut this presumption.
- In April 2010, EPA proposed reconsideration of the 2009 project aggregation action, with a preferred option of revoking the 2009 action. However, after a review of the public comments received on that proposal, the EPA has decided not to revoke the 2009 action and to retain the “substantially related” interpretation set forth in the 2009 action, including making no changes to the rule text.
- In addition to retaining the interpretation in the 2009 action, this action lifts the administrative stay of the 2009 action
- In this action EPA recognizes that the recently issued “Project Emissions Accounting” (PEA) memorandum potentially has implications for project aggregation. PEA is an aspect of “Step 1” of the NSR major modification analysis and allows for the consideration of both a project’s emission increases and its emission decreases when assessing major NSR applicability. EPA notes in this action that it intends to take comment on the potential interaction of PEA and project aggregation when it undertakes rulemaking to clarify, through regulatory text changes, the interpretation set forth in the PEA memorandum.
- This final action will improve the implementation of the NSR program by clarifying a key area of confusion and by streamlining the decision for whether major NSR applies to a specific project.

BACKGROUND

- Congress established the major New Source Review program as part of the 1977 Clean Air Act Amendments. NSR is a preconstruction permitting program that serves two important purposes:
 1. It ensures the maintenance of air quality standards when major stationary sources such as factories, industrial boilers and power plants are constructed or undergo a major modification. In areas that do not meet the national air quality standards, nonattainment NSR ensures that new emissions do not slow progress toward cleaner air. In areas that meet the standards, including pristine areas like national parks, NSR's Prevention of Significant Deterioration (PSD) program ensures that new emissions will not cause air quality to deteriorate significantly and will continue to attain air quality standards.
 2. The major NSR program ensures that state of the art control technology is installed at new major sources or at existing major sources that are undergoing a major modification.
- On January 12, 2009, EPA issued a final action that clarified the major NSR program's policy regarding the term "project aggregation." Project aggregation describes the consideration of multiple physical or operational changes (i.e., projects) at a facility and, when appropriate, treating related changes as a single project for determining major NSR applicability and requirements.

FOR MORE INFORMATION

- To download a copy of today's final action from the EPA website, go to "Regulatory Actions" at the following address: <https://www.epa.gov/nsr/nsr-regulatory-actions>.
- For more information on the final action, contact Dave Svendsgaard at (919) 541-2380 or svendsgaard.dave@epa.gov; or Raj Rao at (919) 541-5344 or rao.raj@epa.gov.