
OAR Box 1962

Prepped by Ollie Stewart

Document Number:

30) II-F-45

Docket Number:

A-2002-4

A-2002-04
II-F-45**United States Department of Energy
Office of the Deputy General Counsel****FACSIMILE TRANSMISSION FORM**

Facsimile from: David R. Hill
Deputy General Counsel
for Energy Policy
Forrestal Building, Room 6D-033
1000 Independence Avenue, SW
Washington, DC 20585

Phone: 202-586-3410
Facsimile: 202-586-7479

To: Bill Wehrum

Facsimile number(s): 202-501-0394

Date Nov. 21, 2002

Pages: 46 (including cover page)

Message:

Here is a first chunk of RMRR preamble pages with DOE edits. The remaining pages with our edits will be sent to you in a few minutes. Thanks.

This facsimile is intended only for the use of the recipient(s) to whom it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient (or a person responsible for delivering this to the intended recipient), you are hereby notified that any disclosure, distribution or copying of this information is strictly prohibited. If you have received this facsimile in error, please notify Darlene Dowing immediately at 202-586-2918 and return the facsimile to her at the address shown above via the United States Postal Service. Thank you.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL-6212-3]

Prevention of Significant Deterioration (PSD) and Non-attainment
New Source Review (NSR): Routine Maintenance, Repair *✓* and *✓*
Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The EPA is proposing revisions to the regulations governing the NSR programs mandated by parts C and D of title I of the Clean Air Act *CAA* (Act). These proposed changes reflect the EPA's consideration of the ~~discussions and recommendations of the President's National Energy Policy Report and from (NEP), EPA's Report to the President on the impact of NSR pursuant to the NEP,~~ *and* EPA's recommended changes to NSR based on the Report findings and discussions with various stakeholders including representatives from industry, State and local governments, and environmental groups. The proposed changes provide a future category of activities that would be considered to be routine maintenance, repair *✓* and replacement (RMR&R) under the NSR program. The changes are intended to provide greater regulatory certainty without sacrificing the current level of environmental protection *✓*

~~IX.~~ VIII. Statutory Authority

I. Purpose

We are proposing a change to the NSR program to provide specific categories of activities that EPA will ~~be~~ consider RMR&R in the future. We are seeking comment on all aspects of our proposed approaches to ~~defining~~ specifying categories of RMR&R activities under the NSR program, and on other options considered. These approaches would be voluntary, in that owners or operators could opt to ~~remain~~ ^{continue} using the current procedures for determining what activities constitute RMR&R at their facilities. This proposal seeks public comments in accordance with Section 307(d) of the Clean Air Act and should not be used ^{or} ~~be~~ cited in any litigation as the final position of the Agency.

II. Background

A. How does the process of using the RMR&R exclusion currently work?

Under the changes promulgated today to 40 CFR parts 51 and 52, "major modification" is defined as any physical change in or change in the method of operation of a major stationary source that would result in: (1) a significant emissions increase of a regulated NSR pollutant; and (2) a significant net emissions increase of any regulated that pollutant from the major stationary source. Owners/operators of major stationary sources are

required to obtain a major NSR permit prior to beginning actual construction of a modification that meets this definition. The regulations exclude certain activities from the definition of "major modification." One such exclusion is for RMR&R activities; ~~however, the~~ The regulations do not define this term. (See 40 CFR 51.165(a)(1)(v)(C)(1), 51.166(b)(2)(iii)(a), 52.21(b)(2)(iii)(a) and 52.24(f)(5)(iii)(a)).

Under our current approach, the RMR&R exclusion is applied on a case-by-case basis. In interpreting this exclusion, we have followed certain criteria. The preamble to the 1992 "WEPCO Rule" (57 FR 32314) and applicability determinations made to date describe our current approach to assessing what activities constitute RMR&R. These applicability determinations are available electronically from the Region 7 NSR Policy and Guidance Database

(<http://www.epa.gov/Region7/programs/artd/air/nsr/nsrpg.htm>). To summarize these documents, ~~we evaluate all relevant information about an activity, including its nature and extent, purpose, cost, and frequency. No single factor is the basis for a determination, and many may be interrelated.~~ If an owner/operator owner or operator is uncertain whether he or she is applying the NSR regulations correctly, we encourage the owner/operator owner or operator to consult the appropriate permitting/reviewing authority for assistance.

*INSERT 1 from
P. 3 of previous version*

OK

(for)