

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 51 and 52**

[FRL-7575-9; RIN 2060-AK28; Electronic Docket OAR-2002-0068; Legacy Docket A-2002-04]

Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing revisions to the regulations governing the NSR programs mandated by parts C and D of title I of the Clean Air Act (CAA). Today's changes reflect EPA's incorporation of comments from the proposed rule for "Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Routine Maintenance, Repair and Replacement." These changes provide a category of equipment replacement

activities that are not subject to Major NSR requirements under the routine maintenance, repair and replacement (RMRR) exclusion. The changes are intended to provide greater regulatory certainty without sacrificing the current level of environmental protection and benefit derived from the NSR program. We believe that these changes will facilitate the safe, efficient, and reliable operation of affected facilities.

EFFECTIVE DATE: This final rule is effective on December 26, 2003.

ADDRESSES: *Docket.* Docket No. A-2002-04 (Electronic docket OAR-2002-0068), containing supporting information used to develop the proposed rule and today's final rule, is available for public inspection and copying between 8:00 a.m. and 4:30 p.m., Monday through Friday (except government holidays) at the Air and Radiation Docket and Information Center (6102T), Room B-108, EPA West Building, 1301 Constitution Avenue, NW, Washington, D.C. 20460; telephone (202) 566-1742, fax (202) 566-1741. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Svendsgaard, Information Transfer and Program Integration Division (C339-03), U.S. EPA Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone 919-541-2380, or electronic mail at svendsgaard.dave@epa.gov, for questions on this rule.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this final action include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups:

| Industry group | SIC ^a | NAICS ^b |
|---------------------------------------|------------------|------------------------------------------------------------------------------------------------|
| Electric Services | 491 | 221111, 221112, 221113, 221119, 221121, 221122 |
| Petroleum Refining | 291 | 324110 |
| Industrial Inorganic Chemicals | 281 | 325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188 |
| Industrial Organic Chemicals | 286 | 325110, 325132, 325192, 325188, 325193, 325120, 325199 |
| Miscellaneous Chemical Products | 289 | 325520, 325920, 325910, 325182, 325510 |
| Natural Gas Liquids | 132 | 211112 |
| Natural Gas Transport | 492 | 486210, 221210 |
| Pulp and Paper Mills | 261 | 322110, 322121, 322122, 322130 |
| Paper Mills | 262 | 322121, 322122 |
| Automobile Manufacturing | 371 | 336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213 |
| Pharmaceuticals | 283 | 325411, 325412, 325413, 325414 |

^a Standard Industrial Classification.

^b North American Industry Classification System.

Entities potentially affected by this final action also include State, local, and tribal governments that are delegated authority to implement these regulations.

Outline

The information presented in this preamble is organized as follows:

I. General Information

- A. How can I get copies of this document and other related information?

1. Docket
2. Electronic Access
- B. Where can I obtain additional information?

II. Background

- A. What is the RMRR exclusion?
- B. Issues surrounding the RMRR exclusion
- C. Process used to develop this rule
- D. What we proposed

III. Equipment Replacement Provision

- A. Overview and justification for today's final action
- B. What is an identical or functionally equivalent replacement and why should such an activity be considered RMRR?
- C. What cost limit has been placed on the equipment replacement approach?
- D. What will be the basis of applying the 20-percent threshold?
- E. What basic design parameters are being established to qualify for the equipment replacement provision?
- F. What collection of equipment should be considered in applying the equipment replacement provision and how should it be defined?
- G. Consideration of non-emitting units as part of the process unit
- H. What is the accounting basis for the process unit?
- I. Enforcement

1. Compliance assurance

2. General issues

J. Quantitative Analysis

K. Consideration of other options

1. Annual Maintenance, repair and replacement allowance

2. Capacity-based option

3. Age-based option

L. Specific list of excluded activities

M. Stand-alone exclusion for energy efficiency projects

N. Legal Basis

1. How does the NSR program address existing sources and why is today's rule consistent with this approach?

2. Why today's rule appropriately implements the Clean Air Act's definition of modification

IV. Administrative Requirements for This Rule

- A. Executive Order 12866—Regulatory Planning and Review