



National Aeronautics and
Space Administration

Principal Center for Regulatory Risk Analysis and Communication

REGULATORY ALERT

UPDATE: New Source Review Aggregation

This information was prepared by NASA's Principal Center for Regulatory Risk Analysis and Communication (RRAC). An archive of regulatory alerts, summaries, and other information is posted on the RRAC PC website at <http://www.nasa.gov/offices/rrac/home/>. If you have further questions and/or need assistance, please contact Sharon Scroggins/MSFC (256-544-7932, sharon.scroggins@nasa.gov).

Date [Citation]: 29 March 2010 [to be published in the Federal Register (FR)]

Regulatory Agency: U.S. Environmental Protection Agency

Rulemaking Type: Proposed Rule

Title: Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation; Reconsideration

Summary:

On 15 January 2009, EPA published a final rule [[74 FR 2376](#)] addressing the aggregation policy of the NSR program. Aggregation refers to combining multiple, related physical or operational changes into a single project to determine whether a permit is required under the NSR program.

The final rule explained that source owners and permitting authorities should combine emissions when changes are "substantially related"—either from an economic or technical standpoint. Furthermore, the final rule specified that a source may not aggregate changes based on timing alone. To be aggregated, changes must have more in common than simply supporting the plant's overall basic function. The rule also provides that sources and permitting authorities can presume plant modifications that are separated by 3 or more years are not substantially related, unless they can prove otherwise.

On 29 March 2010, EPA posted a prepublication version of a [proposed rule](#) to revoke the 15 January 2009 final rule due to concerns that the final aggregation rule introduced ambiguities that might reduce the effectiveness of the NSR program. EPA also proposes to extend the effective date of the aggregation rule for an additional 6 months to allow time to complete the reconsideration. The new effective date would be 18 November 2010.

EPA will accept comments about the proposed revocation of the aggregation policy, the effective date extension, whether "substantially related" is the proper measurement to apply when determining whether or not to aggregate projects, and other elements of the proposed rule for 30 days after it is published in the FR.

Potential Impacts to NASA:

If the January 2009 NSR aggregation amendments are revoked, NSR aggregation policy will revert to the historical aggregation policies in place prior to the January 2009 amendments. In that case, EPA will evaluate case-specific facts and the relationship between individual projects to determine whether they are a single project that should be aggregated for assessment of NSR requirements.

Additional Information: [EPA's New Source Review Regulatory Actions](#)