CLEAN AIR ACT
& NEW SOURCE REVIEW PROGRAM
major legislative & regulatory milestones

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1963
Congress passes the Clean Air Act (CAA)
The purpose of this federal law is "…to protect the Nation's air resources so as to promote the public health and welfare…" It requires the Environmental Protection Agency (EPA) to develop and enforce regulations to protect people from exposure to airborne contaminants that are hazardous to human health.

1970
Congress amends the CAA, establishing NAAQS
The amended CAA directs EPA to require and approve states' implementation plans for "review, prior to construction or modification, of the locations of new sources" of National Ambient Air Quality Standards (NAAQS) pollutants (i.e., a New Source Review [NSR] pre-construction permitting program).

1977
Congress amends the CAA, establishing the PSD program
The amended CAA directs EPA to require and approve states' plans for permitting programs for construction or modification of major sources. This marks the beginning of the Prevention of Significant Deterioration (PSD) permitting program for areas in attainment of the NAAQS.

1980
EPA finalizes rules to implement the 1977 CAA amendments
After three years, the amendments for major source NSR permitting move forward, including PSD permitting requirements.

1990
Congress amends the CAA to further control emissions
Driven by the failure of previous legislation to achieve air quality improvement goals, Congress amends the CAA to further control emissions in areas not attaining NAAQS and to address other issues, such as acid rain. Notably, these amendments did not have provisions for revising the NSR-PSD program.

1992
EPA establishes the WEPCo Rule
Because of a 1990 U.S. Court of Appeals for the Seventh Circuit decision, EPA promulgates the so-called "WEPCo Rule," applying exclusively to power plants. The rule is intended to implement the NSR program to allow utilities to make routine modifications without being subject to NSR permitting requirements.

1996
EPA proposes rules to reform NSR
Part of the reform provides clarifications on applicability determination procedures for existing source modification projects.

2002
EPA releases NSR Improvement Rules
EPA finalizes the proposed NSR rule revisions pertaining to major modification applicability, which become known as the "NSR Improvement Rules." EPA also proposes rules for clarifying which routine maintenance, repair and replacement (RMRR) activities can be excluded from NSR permitting.

2003
EPA finalizes RMRR provisions of the NSR rules
EPA publishes the final RMRR rules, which are immediately challenged by state and local governmental groups, as well as environmental organizations.

2006
U.S. Court of Appeals for the D.C. Circuit rescinds EPA's RMRR provisions
The Court finds that the RMRR provisions were contrary to the CAA and excluded plant changes that should be regulated under the NSR program.

NEW SOURCE REVIEW GLOSSARY

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NEW SOURCE REVIEW (NSR) PROGRAM

A program that requires a new or modified stationary source of air pollutant emissions to obtain a permit from the EPA or the responsible state/local regulatory agency before construction starts (i.e., pre-construction permit).

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) PERMIT

A type of permit under the NSR program that is required for a new major source or a major source making a major modification in an area that meets the National Ambient Air Quality Standards (NAAQS).

MAJOR MODIFICATION

Any physical change in or change in the method of operation of a major stationary source that would result in both:

- A significant emissions increase of a regulated NSR pollutant ***and***
- A significant net emissions increase of that pollutant from the source.

Certain alternative fuels/raw materials and routine maintenance, repair and replacement (RMRR) activities are excluded.

SIGNIFICANT EMISSIONS INCREASE

An increase in emissions of a regulated NSR pollutant that exceeds the rule-specified significant emission rate threshold.

NET EMISSIONS INCREASE

For any regulated NSR pollutant emitted by a major stationary source, this is the amount by which the sum of the following exceeds zero:

- The increase in emissions from a particular physical change or change in the method of operation at a stationary source ***and***
- Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change.

CONTEMPORANEOUS

Being in the time period between the date five years before project construction commences and the date project operation commences.

BASELINE ACTUAL EMISSIONS

The rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows:

- For any existing electric utility steam generating unit (EGU), baseline actual emissions means the average rate at which the EGU actually emitted the pollutant during any consecutive 24-month period selected by the company within the 5-year period immediately preceding the beginning of project construction.
- For an existing emissions unit *other than an EGU*, baseline actual emissions means the average rate at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the company within the 10-year period immediately preceding the date a complete permit application is received by the regulator.

PROJECTED ACTUAL EMISSIONS

The maximum annual rate at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one 12-month period of the 5 years following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date for special circumstances involving increasing the unit's design capacity or maximum emissions.

LET'S TALK AIR QUALITY

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