



U.S. Environmental Protection Agency

New Source Review (NSR)

[Contact Us](#) | [Print Version](#) Search: [GO](#)

[EPA Home](#) > [Air & Radiation](#) > [New Source Review](#) > [Regulations & Standards](#) > Fact Sheet
-- Proposed Changes to Treatment of Corn Milling Facilities Under Clean Air Act Permitting Programs

NSR Home

Basic Information

Where You Live

Regulations & Standards

What You Can Do

Publications

Related Links

Laws & Statutes

Policy & Guidance

Fact Sheet -- Proposed Changes to Treatment of Corn Milling Facilities Under Clean Air Act Permitting Programs

ACTION

- On February 28, 2006 the Environmental Protection Agency (EPA) proposed to revise the definition of "chemical process plants" as it applies to three Clean Air Act permitting programs. These three programs are the:
 - Prevention of Significant Deterioration (PSD) permitting program – a preconstruction permitting program for areas that meet national air quality standards;
 - New Source Review (NSR) permitting program – a preconstruction permitting program for areas not meeting national air quality standards; and the
 - Operating permitting (Title V) program which consolidates Clean Air Act requirements such as national emissions standards for toxic air pollutants and standards of performance.
- Ethanol is produced at corn milling facilities for use as fuel or for human consumption. While the processes are similar, these facilities are currently treated differently under Clean Air Act permitting programs. Under existing rules, corn milling facilities that produce ethanol for fuel are considered a "chemical process plant" while facilities that produce ethanol for human consumption are not classified in that category. Generally, the difference between ethanol for fuel and ethanol for human consumption is that a small amount of gasoline or solvent is added to the fuel ethanol to make it undrinkable and the process does not use food-grade equipment. Otherwise, the processes are similar. EPA's proposal would provide equal treatment for corn milling facilities, regardless of whether they produce ethanol for fuel or human consumption.
- EPA's air permitting programs rely upon emissions thresholds to determine when program requirements would apply. If a facility emits target air pollutants in amounts greater than the threshold, requirements to obtain permits that outline emissions controls would apply. This proposed definition change would establish the same emissions thresholds for all wet and dry corn milling facilities regardless of whether the ethanol end product is used for fuel or human consumption – 250 tons per year for the PSD permitting program. The thresholds for NSR and Title V programs would remain at current levels.
- The proposed definition change also would no longer require corn milling facilities that produce ethanol for fuel to count fugitive emissions when determining if they are above the emissions threshold for the title V operating permit, NSR or PSD programs. Fugitive emissions are emissions that do not come from process stacks or vents. This change may allow some plants to expand production.

- EPA will accept comment on this proposal for 60 days following publication in the *Federal Register*.

BACKGROUND

- Congress established the PSD and major NSR programs as part of the 1977 Clean Air Act Amendments. PSD and major NSR are preconstruction permitting programs that assure the goals of attaining and maintaining air quality and providing for economic growth. These goals are achieved through installation of state-of-the-art control technology at new plants and at existing plants that undergo a major modification.
- Congress established the title V operating permit program as part of the 1990 Clean Air Act Amendments. Title V is intended to improve compliance with emission requirements by consolidating requirements, requiring annual certifications of compliance and in some cases creating additional monitoring requirements.
- Under the Clean Air Act, there are two potential thresholds for determining whether a source is a major source under the New Source Review program -- one threshold is 100 tons per year and the other is 250 tons per year.
- To determine which threshold is relevant for a particular facility, EPA determines what source category it belongs to and what Standard Industrial Classification (SIC) code applies to it. These classifications are based on the source's primary activity, which is determined by the facility's principal product(s) – either produced or distributed -- or services rendered. If the source falls within one of 27 source categories listed in the New Source Review regulations, then the 100 tons per year threshold applies. Otherwise, the 250 tons per year threshold is applicable.
- One of the source categories in this list of 27 source categories is chemical process plants. The SIC code for chemical process plants includes establishments primarily engaged in manufacturing ethanol fuel. Where dry corn milling operations produce ethanol fuel, EPA has historically determined that these operations fall within the source category of chemical process plants. As a result, the 100 tons per year threshold is *currently* applicable to dry corn milling operations that produce fuel. The 250 tons per year threshold applies to dry corn milling operations that produce food products.
- Wet corn milling operations can also produce ethanol, but are primarily engaged in producing starch, syrup, oil, sugar, and by-products, such as gluten feed and meal. For the units at wet corn milling operations engaged in producing the food products mentioned above, these units are classified according to the specific SIC code for wet corn milling (SIC code 2046) and are therefore *currently* subject to the 250 tons per year threshold when determining major source status under the New Source Review program. If wet corn mills produce ethanol fuel, the 100 ton per year threshold currently applies.
- As a chemical process plant, fuel ethanol facilities also are currently required to include fugitive emissions in their emissions threshold totals for determining the applicability of PSD, NSR and operating permit requirements.

FOR ADDITIONAL INFORMATION

- The proposed rule may be found at EPA's website at <http://www.epa.gov/nsr/actions.html>.

- In addition to the proposed rule, other background information are available at www.regulations.gov or in hardcopy at EPA's Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue, NW, Washington, DC. The docket ID No. is OAR-2006-0089. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. The number for the Air and Radiation Docket and Information Center is (202) 566-1742.
- Comments may be submitted to Docket No. EPA-HQ-OAR-2006-0089 by the following methods:
 - www.regulations.gov: Follow the on-line instructions for submitting comments.
 - Fax: 202-566-1741.
 - Mail: Attention Docket ID No. EPA-HQ-OAR-2006-0089, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, B102, Mail code 6102T, Washington, DC 20460. Please include a total of 2 copies.
 - Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room B102, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2006-0089. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- For general information about this proposed rule, contact Joanna Swanson of EPA's Office of Air Quality Planning and Standards at (919) 541-5282, or swanson.ioanna@epa.gov

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