

COMMENTS on a **PROPOSED RULE TO
CLARIFY THE CLEAN AIR ACT'S NEW SOURCE
REVIEW AND NEW SOURCE PERFORMANCE
STANDARDS APPLICABILITY**

(Docket Number OAR-2005-0163)

By the National Association of Manufacturers

Submitted to the Environmental Protection Agency on
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**COMMENTS OF THE
NATIONAL ASSOCIATION OF MANUFACTURERS
to the
ENVIRONMENTAL PROTECTION AGENCY
regarding
DOCKET NUMBER OAR-2005-0163**

**PROPOSED RULE TO CLARIFY THE CLEAN AIR ACT'S NEW SOURCE REVIEW
AND NEW SOURCE PERFORMANCE STANDARDS APPLICABILITY**

The National Association of Manufacturers (NAM) submits these comments in support of the Environmental Protection Agency's (EPA) Proposed Rule to Standardize the Emissions Test for the New Source Review (NSR) and New Source Performance Standards (NSPS) programs, as published in the October 20, 2005 issue of the Federal Register, *70 Fed. Reg. 61081*. The NAM is the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states. Changes to the test for determining applicability of NSR and NSPS programs under the Clean Air Act (CAA) will directly impact the operation of our members' power plants and manufacturing facilities (*70 Fed. Reg. 61081*, Oct. 20, 2005).

The NAM's mission is to enhance the competitiveness of manufacturers and improve American living standards by shaping a legislative and regulatory environment conducive to U.S. economic growth. As a general matter, the NAM is supportive of EPA regulations that are designed to provide real net benefits to environmental quality and the public health, including the health of manufacturing workers and their families. Conversely, the NAM opposes emissions regulations that would impose more compliance costs on the manufacturing sector, especially with no clear goal for achieving improved environmental quality. The NAM supports the EPA's proposal that will clarify and streamline applicability determinations, providing uniform requirements nationwide, pursuant to NSR and NSPS. Simplifying and streamlining compliance requirements enhance economic growth while allowing the EPA to fulfill its statutory mandate to protect environmental quality and public health.

I. Background – the EPA's Proposal

To facilitate the smooth implementation of key air programs, the EPA is proposing a draft rule to ensure the New Source Review (NSR) program is more compatible with current air pollution control programs that protect public health and the environment. Through the Clean Air Interstate Rule, the Clean Air Visibility Rule and the Acid Rain Program, the EPA has set a permanent cap on power plant emissions. Today's proposal provides the nationally consistent regulatory framework to assure NSR complements the programs that achieve these significant emissions reductions.

The proposed rule would establish a uniform emissions test for existing power plants nationwide by adopting the test used under the Clean Air Act's New Source Performance

Standards (NSPS). A uniform nation-wide emissions test for the NSR program provides regulatory clarity and certainty needed to aid the smooth and effective implementation of these programs.

Following a U.S. Fourth Circuit Court of Appeals decision in July 2005, an NSPS-style emissions test currently applies for the NSR program in five states. Today's proposed rule addresses the court decision by ensuring that the NSR program is implemented consistently across the country, including the five states impacted by the federal court decision, which include Virginia, West Virginia, Maryland, North Carolina and South Carolina. The hourly emissions increase test is used to determine if a physical or operational change at a power plant will lead to emissions increases that could potentially require a facility to install pollution controls. The proposed rule applies only to existing electric generating units. New electric generating units will continue to be subject to current NSR preconstruction review requirements.

II. NSR Directly Impacts Manufacturers

The NAM supports the Administration's ongoing efforts to reform the NSR program. The majority of NAM members are impacted by the NSR permitting process either directly or indirectly. Even those manufacturers who do not apply for NSR permits buy their electricity from power providers that must comply with the program. NSR permits involve a great deal of input from environmental engineers, lawyers, and other specialists, which add significantly to the manufacturing sector's overhead costs. Even though the EPA has limited its proposal to Electric Generating Units (EGUs), it solicits comments on potential applicability to other sources. The NAM applauds the fact that the EPA proposes to establish a uniform emissions test for the entire country.

III. Non-Uniform Emissions Standards Diminish Energy Supply, U.S. Competitiveness

The manufacturing sector uses about one-third of the nation's energy, including one-third of its natural gas and almost 30 percent of its electricity. Compliance with regulations promulgated pursuant to the Clean Air Act (CAA) such as power plant permitting, among others, comprises a large percentage of energy and electricity costs for American manufacturers and consumers. According to a recent NAM study, external overhead costs, including regulation and rising energy prices, add approximately 22 percent to U.S. manufacturers' unit labor costs (nearly \$5.00 per hour worked) relative to their major foreign competitors. More specifically, as a percentage of output, American manufacturers spend considerably more on pollution abatement than do their competitors in Germany, Japan, France, the U.K., Canada, Mexico, China, South Korea and Taiwan. Accordingly, the NAM has a vested interest in the EPA's development of rules that address air pollutants in a cost-effective manner without interfering with affordable and reliable energy for American consumers and manufacturers. The NAM's broad-based membership includes fossil fuel-fired electric generating units and all other manufacturing sectors.

The NAM supports continued progress, enhancing air quality while growing the economy, under the CAA. According to EPA statistics, between 1970 and 2003, "total

emissions of the six principal air pollutants dropped by 51 percent” while “gross domestic product increased 176 percent, vehicle miles traveled increased 155 percent, energy consumption increased 45 percent, and U.S. population grew by 39 percent.” The NAM urges the EPA to streamline existing programs where possible to give business planners the certainty necessary to make capital expenditures. The EPA’s proposal to offer a single set of applicability requirements for the NSR and NSPS programs helps achieve that objective.

IV. Conclusion

The NAM supports the EPA’s proposal to establish a uniform, nationwide applicability test for NSR. The EPA must recognize that streamlining the number of compliance hurdles will increase economic expansion, thereby expedite development of technologies that will lead to a cleaner and healthier environment for all Americans. The manufacturing sector and its workers urge you to adopt this proposal and move forward with a reformed and streamlined NSR program. For more information, contact Bryan Brendle at bbrendle@nam.org or (202) 637-3176.