Questions and Answers about EPA's 2002 New Source Review Improvements

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1. How will the NSR reforms improve the environment?

- Our reforms will remove the obstacles to environmentally beneficial projects, clarify NSR requirements, encourage emissions reductions, promote pollution prevention, provide incentives for energy efficient improvements, and help assure worker and plant safety. Overall, our reforms will clarify and simplify the program so that industry will be able to make improvements to their plants that will result in greater environmental protection.

2. Why does NSR need to be fixed?

- EPA's in-depth study of the NSR program has shown that it has an adverse impact on investment in expanding and preserving capacity, as well as in energy efficiency. It found that investment is hindered by (1) regulatory uncertainty and lack of flexibility resulting from confusion about the program's requirements, and (2) the added costs and delays imposed by the NSR process – the NSR permit process can add a year or more to the time needed to review proposed plant modifications, and cost over $1 million. As a result, many companies delay or abandon plans to modernize their facilities in ways that would benefit the environment. These reforms will facilitate improvements in these facilities that will be good for the environment, such as energy efficiency and pollution prevention projects, while retaining the elements of NSR that protect our air quality.
- Since the early 1990s, numerous interested parties have called for improvement and simplification of the NSR program, particularly as it applies to existing facilities. As recently as last summer, the nation's Governors and the nation's state environmental commissioners – on a bipartisan, basis – both called for reform of the NSR program. EPA has been working to address these concerns for years and although there are differing views on how to best improve the program, the call for reform has been widespread.
- The current program is unnecessarily complex. It is widely recognized that the 20 year old program needs to be modernized not only to allow for the increased energy needs of the American public and to reflect the improved competitiveness of American industry -- but also to ensure the protection of the environment.
- EPA's improvements target situations where owners need to make changes to their existing facilities in order to ensure reliable, efficient, and safe operations. The overall approach is to create incentives for

facilities to reduce air pollution. The current NSR program is effective for new industrial facility construction, but it is problematic for existing facilities.

3. What are the key provisions of the Clean Air Act, how are they affected by the NSR reforms? How will we protect air quality?

- NSR is one of many programs created by the Clean Air Act to reduce emissions of air pollutants — particularly pollutants that are emitted from a wide variety of sources and have an adverse impact on human health and the environment. Other key programs include the Acid Rain Program, air toxic standards, New Source Performance Standards, the 22-state NOx "SIP Call" regional transport rule, the Regional Haze Program, numerous mobile source programs, and other state and local State Implementation Plan (SIP)-based standards. These protections under the Clean Air Act do not change.
- NSR will not take away the public health protection provided by the Clean Air Act through the National Ambient Air Quality Standards and the programs that ensure their compliance. The key provisions of the Clean Air Act include programs designed to protect human health and the environment from the harmful effects of air pollution and these protections remain in place. States implement source-specific emission limits through State Implementation Plans and States may also set more stringent requirements if further controls are needed.

4. When will these changes be implemented? Will all states implement all the changes?

- EPA will issue regulatory changes in a rulemaking action later this year.
- State and local air pollution control agencies will then need to adjust their regulations to reflect the NSR reforms. This State and local process will take, approximately, one additional year. By law, states and local agencies are free to make their rules more restrictive than the Federal regulations.

5. How does the Clear Skies Initiative complement the NSR program?

- These reforms to the NSR program complement the historic clean air initiative the President proposed on February 14 of this year. The Clear Skies initiative is the most important new clean air initiative in a generation, and will cut power plant emissions of the three worst air pollutants – nitrogen oxides, sulfur dioxide, and mercury – by 70 percent. The initiative will improve air quality and public health, protect wildlife, habitats and ecosystems. By using a proven, market-based approach, Clear Skies will make these reductions further, faster, cheaper, and with more certainty than the current Clear Air Act. In the next decade alone,

Clear Skies will remove 35 million MORE tons of air pollution than the current Clean Air Act.

- For power plants under the Clear Skies Initiative, NSR would no longer be necessary to ensure pollution reductions. Nor would it be necessary to require a NSR permit every time a plant modifies its equipment – the industry must simply meet its cap limits no matter what projects occur at individual plants. This is the most efficient way to achieve emissions reductions needed to meet the National Ambient Air Quality Standards (NAAQS) and ensure good air quality across the country. Reforming NSR and enacting Clear Skies legislation will ensure that Americans enjoy a clean, affordable, reliable energy supply in the years ahead.

6. What elements of NSR will remain in place, unchanged by these reforms? Will your reforms modify NSR, or actually eliminate it?

- The basic elements of the NSR program remain in place. All new major sources of air pollution will need to comply with the best control technology and existing sources which make major modifications and have a significant increase in actual emissions also will have to meet these requirements. The reforms simply clarify which changes at existing sources can be made without triggering NSR.