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July 2, 2024

Honorable Administrator  
Michael S. Regan  
U. S. Environmental Protection Agency  
Docket Center, OAR  
Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Submitted via email to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)

Re: NTAA comments on Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Regulations Related to Project Emissions Accounting, Docket ID EPA–HQ–OAR-2022-9249.

Dear Honorable Administrator Regan,

The National Tribal Air Association (NTAA) is pleased to submit this letter to provide comments on the U.S. Environmental Protection Agency’s (EPA) proposed rule on the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Regulations Related to Project Emissions Accounting, comments due July 2, 2024.

The NTAA is a member-based organization with 156 Member Tribes. The organization’s mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of American Indian and Alaskan Natives Tribes. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important to understand that interactions with the organization do not substitute for Nation-to-Nation consultation, which can only be achieved through direct



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communications between the federal government and American Indian Tribal Governments and Alaskan Natives.

The NTAA supports EPA’s actions in this proposal to improve accountability, enforceability, and transparency in the new source review (NSR) project emissions accounting process. The proposals in the rule generally strengthen reporting requirements and require more substantiation of projected emissions decreases that could be used to net emissions and avoid triggering major NSR permitting. In addition, the revised definition of “project” provides helpful clarity.

Although the NTAA supports EPA’s proposal, the NTAA has the following suggestions:

First, the NTAA supports the newly proposed requirement that “sources be required to submit pre-project records to the reviewing authority for all projects that trigger the [reasonable possibility] criteria, including projects that do not involve EUSGUs.” The NTAA urges EPA to reject its alternative proposal to allow these records to be kept on site rather than submitted to the reviewing authority. Unless these records are submitted to that authority, the authority, the EPA, and nearby Tribal communities and Nations (as well as the public) will be hindered in their ability to review the information and hold the sources accountable to their calculations. The NTAA suggests that EPA require annual submission of those reasonable possibility records to the permitting authority.

Second, for minor sources that determine, based on these reasonable possibility calculations, that they may remain a minor source, there should be a clear linkage between the accounting process reflected in those records and the existing minor source permit so there is transparency for the public about the facility and its anticipated emissions.

Third, in the section describing EPA’s implementation of Executive Order 13175 and the proposal’s impacts on Tribal governments, EPA does not acknowledge that some Tribal governments have EPA-approved or delegated Title V major source permitting or EPA-approved minor source permitting Tribal Implementation Plans, including Gila River Indian Community, St. Regis Mohawk Tribe, Navajo Nation, and Mohegan Tribe of Indians of Connecticut. Moreover, EPA must work with these Tribes and others to ensure that they are aware of this rule as relevant to NSR project emissions accounting and source modification decisions.

## **VI. Conclusion**

The NTAA appreciates the opportunity to submit this comment and looks forward to further work with EPA on this important issue. If you have any questions or require clarification from the NTAA, please do not hesitate to contact the NTAA’s Program Manager, Carolyn Kelly, at [carolyn.kelly@nau.edu](mailto:carolyn.kelly@nau.edu).



Respectfully,

Syndi Smallwood

Chair

National Tribal Air Association

Cc: Sharri Venno, R1 RTOC Tribal Co-Chair  
Shavonne Smith, R2 RTOC Tribal Co-Chair  
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Jason Walker, R8 RTOC Tribal Co-Chair  
Roman Orona, R9 RTOC Tribal Co-Chair  
Raymond Paddock, III, R10 RTOC Co-Chair  
Pat Childers, Senior Tribal Program Coordinator, OAR  
Carolyn Kelly, Program Manager, NTAA