

Project Aggregation

Air & Waste Management Association
Louisiana Section



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SPIRIT
ENVIRONMENTAL

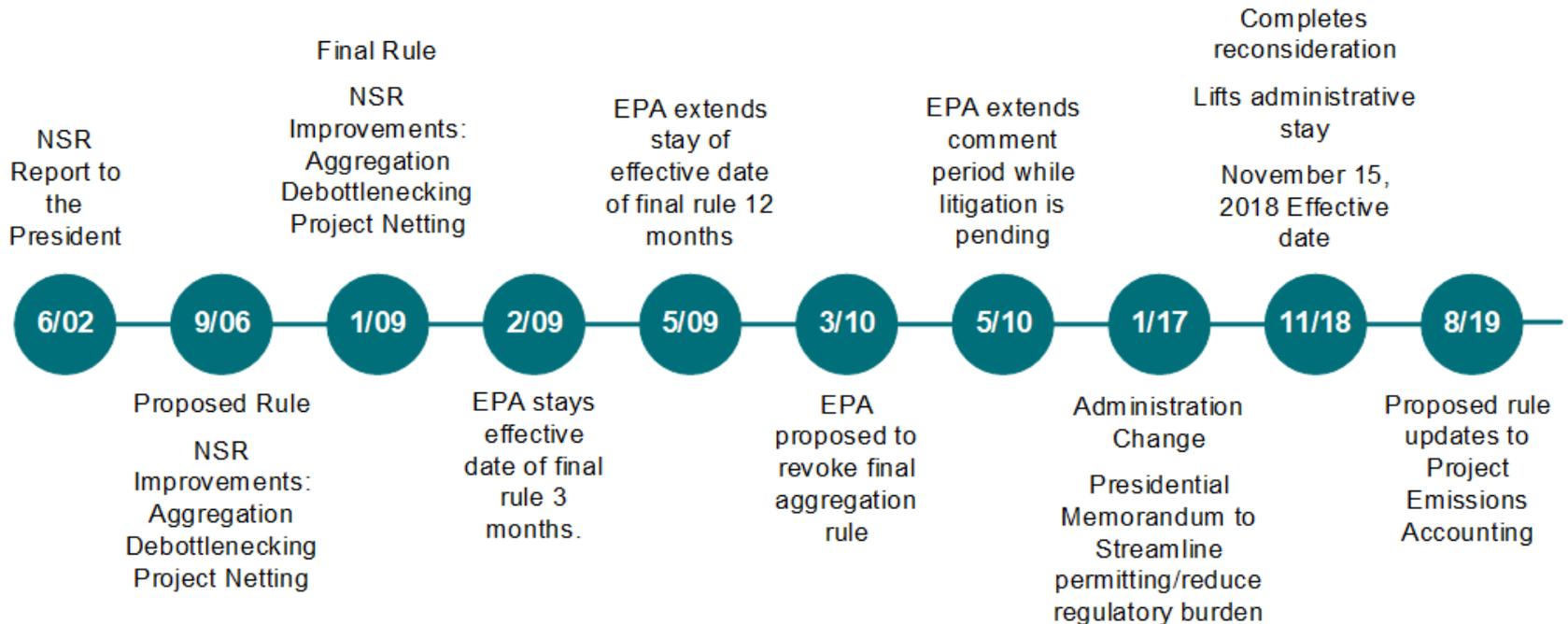
— Overview

- Regulatory Timeline
- Project Aggregation Proposed Rule 2006
- Project Aggregation Final Rules 2009/2018
 - Definition/Criteria
 - Examples
- Project Emissions Accounting



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Regulatory Timeline



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Initial Proposal 2006

- Previously, project aggregation based on the United States Environmental Protection Agency (“US EPA”) letters and memos.
- Intent was to define “technical dependence” and “economic dependence” by regulation.
- Universally apply terms and reduce subjective nature of the aggregation test; “bright line” test.
- Requested comments on what project timelines could be presumed separate projects.



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Final Rule 2009/2018

- Decided regulatory “bright lines” should not be adopted. Too prescriptive.
- 2009 final rule to clarify interpretation of project aggregation. No regulatory language actually changed.
- So why are we talking about this??



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Project Aggregation Defined

US EPA's January 15, 2009 Federal Register (interpretation retained by US EPA 11/15/2018):

- Project aggregation describes the process of grouping together multiple, nominally-separate but related, physical changes or changes in the method of operation into one physical or operational change, or “project”.
- Physical or operational changes that are “substantially related”.



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Project Aggregation Defined

US EPA's January 15, 2009 Federal Register (interpretation retained by US EPA 11/15/2018):

- Activities that have a substantial technical or economic relationship.
- Indicators include projects that occur close in time and are functionally interconnected.



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— Substantially Related Example

- Installation of burners on a utility boiler
&
- Required modification to the air handling system to avoid severe impairment when operating the new burners

Technically Related



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— Substantially Related Example

- Installation of a process heater to make a new product
- &
- Installation of a tank to hold the new product

Technically Related



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Substantially Related Example

- Auto manufacturer modifies a boiler
&
- Change made in the coating line

Not Necessarily Technically Related

- Retrofit boiler for higher pressure steam for steam pump elsewhere.
- Coating line may use heat from boiler but not necessarily the higher pressure steam.



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Evaluating Project Aggregation

- Timing Indicators
 - Changes separated by three (3) or more years are not “substantially related” (Maybe 😊).
 - A source does not have to group changes based on timing alone.
- Application of funding (i.e., same capital improvement project).
- Business unit interactions.
- Changes are not required to be aggregated simply because they support the plant’s overall basic purpose.



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— Evaluating Project Aggregation

- Timing: Time between multiple minor source applications
 - 1993 3M-Maplewood letter: “EPA will closely scrutinize minor source permit applications that occur over a short time period (e.g. one [1] year or 18 months) and which would otherwise be subject to major NSR if their emissions were aggregated”



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— Evaluating Project Aggregation

2007 letter (Pennsylvania Department of Environmental Protection regarding United Refinery), US EPA determined:

- Projects conducted over more than five (5) years, directly impacting multiple emission units, and were a single, on-going project based on:
 - Modifications that were related to an overall goal of “ultimate compliance with the Tier 2 gasoline standards”
 - Knowledge of the overall goal prior to the multiple modifications (“the overall scope of the project was known in 2002” and financially planned for)
 - Successive modifications were dependent on previous modifications (i.e., one [1] project affected by another)



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— Evaluating Project Aggregation

If a project is defined as one (1) project, can manage timelines and funding using multi-phase permitting:

One (1) project spread over many years:

- Each phase may have different “commence construction” dates
- Each phase may have different authorized emissions

Watch changes in non-attainment status (may require re-evaluation of the whole project)



BE WATCHFUL



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— Evaluating Project Aggregation

- Application of funding: Financial ties between projects.
 - Can go all the way up to holding company
 - Are there financial dependencies between the projects?
 - May have to research contracts, etc.



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Evaluating Project Aggregation

- Business unit interactions:
 - Is each project economically viable long-term as a “stand-alone”?
 - Are production projections dependent on each other?
 - Are shutdowns planned so one (1) unit operates while the other is down to protect financials?



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— Evaluating Project Aggregation

2013 letter (EPA to J.R. Simplot Company Sulfuric Acid Plant)

- Project included adding control due to consent decree requirements.
- Projects also included an increase in production from two separate units to offset the cost of controls.
- Indicator was multiple minor modification applications within a short period of time.



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— Evaluating Project Aggregation

2013 letter (EPA to J.R. Simplot Company Sulfuric Acid Plant)

- EPA's own analysis of the economics:
 - Sulfuric acid produced at the two units is the same product and fed to shared tankage, thus comingled.
 - Simplot coordinates shutdown for unit #300 and #400 for turnarounds each year so that at least one plant is operating at all times.
 - Therefore an increase in production at one plant must be seen as an increase in production that supports an overall increase in comingled downstream operations.



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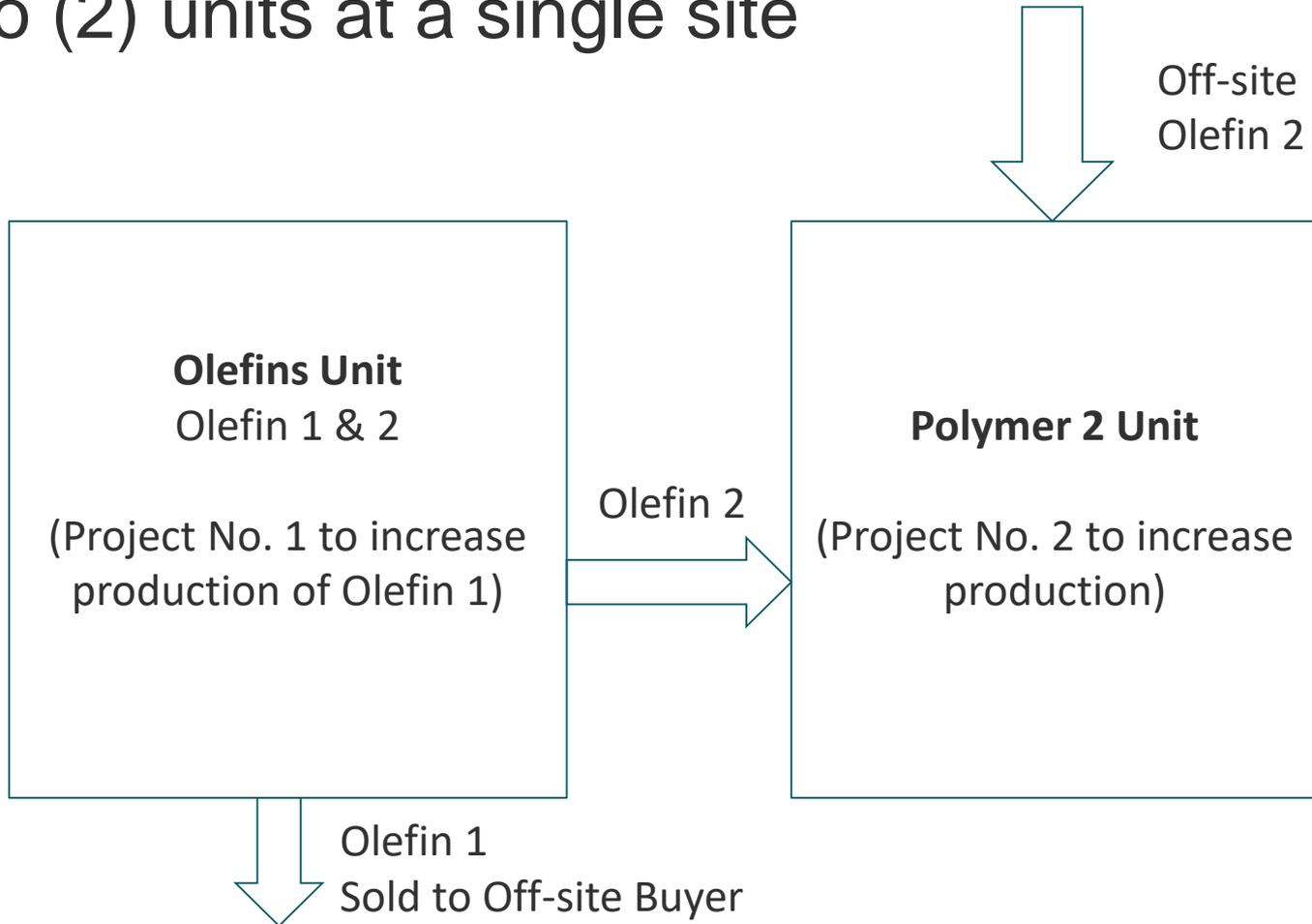
Supporting Plant's Overall Basic Purpose

- 1993 3M-Maplewood letter:
“These emissions and thereby modifications cannot be presumed to be independent given the plant's overall basic purpose to support a variety of research and development activities”
- US EPA had concern that this was not an appropriate criterion for aggregating projects.
- Projects that serve the overall basic purpose of the plant but are unrelated should not be aggregated.



Project Aggregation Example

Two (2) units at a single site



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Project Aggregation Example

Example: Two (2) units at a single site

- Should the projects be aggregated? **No**
- Project 1 – Increases Olefin 1 production; 100% sold to offsite buyer; Olefin 2 is not affected
- Project 2 – Increases Polymer 2 production through an increase in offsite Olefin 2 purchases



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Project Emissions Accounting

- US EPA’s “Project Emissions Accounting” (“PEA”) proposed rule (8/2019):
 - Step 1 of the New Source Review (“NSR”) major modification analysis now clarifies the use of emission increases and decreases.
 - US EPA plans to take comments on the interaction of PEA and project aggregation during this rulemaking.
 - Codifying regulatory language to be consistent.
 - States are not required to wait for the final rule effective date (Louisiana in the process of making changes).



QUESTIONS?

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