NEW SOURCE REVIEW
SUPPORT H.R. 3128

Rep. Morgan Griffith (R-Virginia) has introduced H.R. 3128. This legislation provides much-needed changes to New Source Review (NSR).

- It clarifies that a "major modification" only increases emissions of any air pollutant if:
    - The hourly emissions rate after the modification exceeds the hourly emissions rate of the facility as originally designed, and;
    - Exceeds the maximum hourly emissions rate of the facility that was achieved during the preceding 10 years.
- It also clarifies that "modification" does not include projects designed to reduce the amount of any air pollutant or projects to restore, maintain, or improve reliability or safety at the affected facility unless the project *increases* a source's maximum achievable hourly emission rate, and the Environmental Protection Agency determines that the increase is harmful to human health or the environment.

Basin Electric supports this legislation to provide certainty for NSR review for energy efficiency and pollution control projects.

Background

NSR is an air quality permitting program under the Clean Air Act (CAA). The purpose of NSR was to require a pre-construction permitting review and assess the need for appropriate environmental controls if a stationary source was going to build new facilities, or make "major modifications" that would increase emissions of any air pollutant from the stationary source.

EPA's regulations regarding NSR exempt "routine maintenance, repair, and replacement" projects; however, these undefined terms have been subject to broad interpretation and litigation and ultimately create uncertainty for utilities as to what improvements are going to trigger NSR requirements.

Examples of changes to existing power plants that have been included in complaints filed in NSR enforcement actions include:

- Improving the efficiency of an existing source through installation of new, more efficient replacement components such as turbine blading or higher-efficiency motors and pumps;
- Adding control equipment to reduce emissions of one air pollutant that results in an incidental increase in another air pollutant (for example, NOx reductions are inversely correlated to carbon monoxide emissions); and
- Undertaking routine component replacements, which may include replacing or upgrading a piece of equipment to ensure the performance and reliability of a unit.

EPA has interpreted that efficiency improvements can trigger NSR because they can increase the operability and dispatch of a plant, thus increasing overall emissions from increased operation.