



# The Meaning of “Adjacent” for Permitting Stationary Sources

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# Rulemaking - “Adjacent” Definition

- Summit Court Case (6<sup>th</sup> Circuit, 2012) – “Adjacent” means “side by side” or “nearby” as opposed to EPA’s definition as “functionally interrelated” regardless of physical distance
- June 3, 2016 USEPA finalized the definition of “adjacent” for O&G stationary sources under the NSR and Title V permitting programs (effective date of the rule August 2, 2016)
  - “Adjacent” means within 0.25 miles;
  - Applies ONLY for onshore oil and natural gas sector sources:
    - Oil and Gas Extraction: NAICS 2111
    - Crude Petroleum and Natural Gas Extraction: NAICS 211111
    - Natural Gas Liquid Extraction: 211112
    - Drilling Oil and Gas Wells: 213111
    - Support Activities for Oil and Gas: 213112
    - Federal Govt & State/Local/Tribal Govt (may be affected)

# Definitions of Major Source & “Adjacent”

## Under PSD and NNSR

- 100 tpy if one of 28 “Named Installations”
- 250 tpy for all other installations
- Includes “all pollutant-emitting activities” that meet 3-prong test:
  - Belong to the same industrial grouping
  - Are located on one or more contiguous (boundaries touch) or adjacent (side-by-side or darn close) properties
  - Are under the control of the same person (or persons under common control)

## Under Title V

- 100 tpy (or less for Ozone NA)
- 10/25 tpy HAP
- Same 3-prong

# Key Issues of New “Adjacent” Definition

- This rule ONLY applies to O&G sources:
  - “Adjacent” boundaries within 0.25 miles (except for public roadways, rail corridors, and other public right-of-ways which do NOT cause sites to be separate from one another)
  - Separate surface sites located within 0.25 mile, and include shared equipment to process or store oil or natural gas, shall be aggregated for permitting purposes as a single stationary source
- Certain states (WI) are applying this unilaterally to all stationary sources
- NESHAPs definition for “major source” only uses “contiguous” and not “adjacent” – an example:
  - Two industrial facilities sharing NAICS, common ownership, be located within 0.25 miles of each other, > 100 tpy VOC (“non-contiguous”); and
  - Each site can then have its own 10/25 tpy threshold, and may not be subject to a major source NESHAPS

Thank you

## Questions?

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