

FACT SHEET

Proposed Amendments to the "General Provisions" of National Emission Standards for Hazardous Air Pollutant Emissions

Proposed Amendments to Clean Air Act's "Section 112 (j) Rule"

WHAT ARE THE PART 63 GENERAL PROVISIONS?

- ! The National Emission Standards for Hazardous Air Pollutants (NESHAP) "General Provisions" establish the framework for developing air pollution standards to regulate emissions of toxic air pollution and other requirements developed as part of section 112 of the Clean Air Act (CAA). The CAA requires emission standards to be written for different industries that emit toxic air pollution. The General Provisions provide common regulatory language for EPA to use -- on issues such as public participation -- that are common to a variety of NESHAP regulation.

WHAT IS TODAY'S ACTION CONCERNING THE GENERAL PROVISIONS?

- ! The General Provisions were promulgated on March 16, 1994. On May 16, 1994, six petitioners filed for review of the General Provisions. Today's action proposes amendments to the 1994 regulations in response to those petitions and other suggestions for improvements. These proposed changes will clarify and streamline the regulations.

WHAT IS THE EFFECT OF THE PROPOSED GENERAL PROVISIONS AMENDMENTS?

- ! The proposed amendments would make the regulations more flexible and reduce the regulatory burden on industry, while improving compliance and compatibility with other regulations governing sources of hazardous air pollutants (HAP).

WHAT ARE THE KEY PROPOSED AMENDMENTS TO THE GENERAL PROVISIONS?

- ! In general, EPA applies all parts of the General Provisions to each source subject to NESHAP developed pursuant to section 112(d) of the CAA. EPA proposes that the compliance, testing, monitoring, notification, recordkeeping and reporting, and control device requirements of the General Provisions would only apply when included in individual NESHAP.
- ! EPA is proposing to add eight criteria by which regulations to control toxic air pollution from new or reconstructed sources would be defined in each NESHAP. These criteria would be added

to the definition of a "new affected source" in the General Provisions. These revisions would ensure consistency in the application of new source MACT and reconstructed source requirements. They would also assure that the regulations do not lead to interpretations in which a small change would trigger the requirements of a new or reconstructed source.

! EPA is proposing to extend the period of time available for an owner or operator of facility to request a 1-year compliance extension for the installation of pollution controls. This proposed extension would change the time period for requesting a one year extension from the current deadline of 1 year before the compliance date to 120 days before the compliance date, and in certain circumstances up to the compliance date.

! The changes EPA is proposing will clarify several issues related to the startup, shutdown, and malfunction provisions. These changes include how these provisions should be addressed in a title V permit; the relationship of these provisions to safety and "good air pollution control practices"; and how these provisions relate to monitoring equipment.

WHAT IS THE SECTION 112(j) RULE?

! This rule governs how to establish equivalent limitations on HAP emissions by permit. The CAA states that if EPA fails to promulgate NESHAP on schedule, then major source owners and operators must submit a permit application no later than 18 months after the missed date. The permitting authority is then required to determine the level of control necessary for the source and issue the requirements to the source within a permit.

WHAT IS TODAY'S ACTION CONCERNING THE SECTION 112(j) RULE?

! The section 112(j) rule was promulgated on May 20, 1994. Several petitioners filed for review of the section 112(j) rule. In part, today's action proposes amendments to those promulgated regulations in response to the petitioners.

WHAT IS THE EFFECT OF THE PROPOSED AMENDMENTS ON THE SECTION 112(j) RULE?

! The proposed amendments would generally have the effect of streamlining and clarifying the promulgated regulations. In particular, the proposed amendments clarify the timing and applicability of the standards.

WHAT ARE THE KEY PROPOSED AMENDMENTS TO THE SECTION 112(j) RULE?

- ! The amendments to the rule propose that new source MACT would apply at the time that a title V operating permit is issued for the affected source, instead of according to the regulatory schedule under section 112(j) of the CAA. Under the current rule issued in 1994, the MACT requirements could apply prior to the effective date of the title V permit, and this created uncertainty for sources about how new source MACT requirements would apply.
- ! The proposed amendments would revise the rule to create a two-phased MACT application process. Part 1 MACT applications would include basic information and application submittals would be based on the section 112(j) effective date.
- ! Part 2 MACT applications would include the relevant process, pollutant, and control information required to make the MACT determination. The Part 2 MACT application would be due approximately 6 months after the Part 1 application.
- ! EPA also has proposed procedures for permitting authorities to notify sources of their applicability, for sources to request a section 112(j) applicability determination, and for sources to request an equivalency determination with existing section 112(g) MACT that already applies to the source.
- ! In addition, EPA has proposed amendments to the definition of "available information" to limit what "new" information can be introduced into the MACT determination process after the Part 2 MACT application is filed.

WHAT ARE THE INTERACTIONS BETWEEN CAA SECTIONS 112(d), 112(j), and 112(g)?

- ! With these proposed rulemakings, EPA intends to clarify the relationship among the MACT determinations made under the various section 112 regulatory programs. A key presumption is that the MACT process should be largely replicable and that situations forcing sources to make major capital expenditures for subsequent MACT should be limited.
- ! The test for comparability of MACT is that the outcome under one MACT determination is "substantially as effective as" the outcome under a subsequent MACT determination.
- ! Rather than establishing a quantitative test, EPA proposes to ensure there is sufficient review by the permitting authority, the public, and the EPA in evaluating source requests for case-by-case MACT reviews.

FOR FURTHER INFORMATION

- ! For further information contact Mr. Rick Colyer (919) 541-5262 or Mr. James Szykman at (919) 541-2452. The proposed rule is available from the World Wide Web at <http://www.epa.gov/ttn/oarpg/t3pfpr.html>.
- ! EPA's Office of Air and Radiation home page on the Internet contains a wide range of information on the Air Toxics Program and many other air pollution programs and issues. The address is: <http://www.epa.gov/oar>.

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