

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”

TODAY’S ACTION

- The Environmental Protection Agency (EPA) today proposed amendments to two rules pertaining to national standards to control emissions of air toxics from industrial facilities across the country. Air toxics, also known as hazardous air pollutants, are those compounds known or suspected of causing cancer or other serious health effects.
- The first of today’s proposed actions would amend a rule known as the “General Provisions.” The General Provisions establish a common set of requirements for developing rules or standards to regulate emissions of toxic air pollution.
- EPA also is proposing to amend its rule known as the “Section 112(j) rule.” The Section 112(j) rule currently affects about 60 categories of industry for which EPA has yet to issue air toxics standards.
- The amended rule requires states to establish case-by-case MACT in a source’s permit only if EPA does not finalize the MACT standard that applies to the source before the permit is issued.
- Case-by-case MACT requires the state to set emission limits on a facility-by-facility basis. In order to do so, the state needs facilities to submit the second part of their permit application, known as a “Part 2 application.”
- EPA fully expects to finalize all MACT standards before the Part 2 applications are due, and eliminate the need for states to establish case-by-case MACT.
- Both amendments are the result of a proposed settlement agreement EPA reached with the Sierra Club on November 26, 2002.

PROPOSED AMENDMENT REQUIREMENTS - GENERAL PROVISIONS

- Today's proposed amendments would require an affected source to submit a copy of its startup, shutdown, and malfunction plans (SSMP) to its enforcement agency and to revise its plan if that agency finds it to be deficient.
- An SSMP is a required document that describes how a source will operate to minimize emissions during periods of startup, shutdown, and malfunction.
- The proposed amendments would also clarify that following an inadequate or deficient SSMP that does not minimize emissions, would not constitute compliance with the startup, shutdown, and malfunction provisions.

PROPOSED AMENDMENT REQUIREMENTS - SECTION 112(j) RULE

- EPA's April 2002 amendments to the section 112(j) rule created a two-part permit process. Part 1 is a simple notification of a facility's location. Part 2 is a more detailed application that can be used by the state to set emission limits on a facility-by-facility basis.
- The proposed amendments to the Section 112(j) rule would tie submittal of the Part 2 application to EPA's schedule for issuing MACT standards:
 - For standards scheduled to be issued before May 15, 2003, the Part 2 application would be due on May 15, 2003.
 - For those standards scheduled to be issued after May 15, 2003, the Part 2 application would be due 60 days after EPA's missed deadline.
- The proposed amendments would also allow sources that previously requested an applicability determination to resubmit those requests within 60 days after proposal of a relevant MACT standard or 60 days after promulgation of these amendments, whichever is later.
- An applicability determination is a request by an affected source, asking its permitting authority to make a determination whether or not the source is subject to the Section 112(j) rule requirements.
- A negative determination would mean the source was not subject to the 112(j) rule and would not have to pursue case-by-case MACT. A positive determination would mean that the source is subject to the Section 112(j) rule requirements and would have to pursue case-by-case MACT, unless EPA issues a MACT standard for that source before the source is issued a permit.

- Only resubmitted applicability determination requests would be considered for determinations by the permitting authority. The source must also explain in the resubmittal why it cannot determine applicability after reviewing the relevant proposed MACT standard. The permitting authority would make a final applicability determination within 60 days.

BACKGROUND

- The Clean Air Act requires EPA to identify industrial or “source” categories that emit one or more of the listed 188 toxic air pollutants. Major sources are those sources that emit 10 tons per year or more of a single air toxic or 25 tons per year or more of a combination of air toxics.
- For major sources within each source category, the Clean Air Act requires EPA to develop national standards that restrict emissions to levels consistent with the lowest emitting (also called best-performing) plants. These air toxics control standards are based on what is referred to as “maximum achievable control technology,” or MACT.
- The Clean Air Act requires EPA to issue air toxic control standards over a 10-year schedule. If EPA misses a regulatory deadline by 18 months, Section 112(j) requires permitting authorities to revise the operating permits of affected major individual sources to contain air toxic emission limits equivalent to the limits that EPA should have established.
- Under Section 112(j), when EPA subsequently issues delayed national air toxics emission standards, the source must eventually revise its permit, as necessary, to incorporate the emission standards.
- EPA issued amendments to the Section 112(j) rule on April 5, 2002. The amendments created a 2-part permit application process; the first part was due on May 15, 2002, and the second part by May 15, 2004. EarthJustice, representing the Sierra Club, filed a petition for review. Today’s action proposes to amend the rule a second time as agreed to with the petitioner and other stakeholders.

FOR FURTHER INFORMATION

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

