

Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards:

40 CFR 52.40(e) Requests for Case-by-Case Emissions Limits

Revised October 16, 2023

Note: Each owner or operator of an affected unit is responsible for complying with all applicable requirements in 40 CFR 52.40-52.46 and should not rely on the information on this webpage as a substitute for those requirements. In the event of any discrepancy between the contents of this webpage and EPA’s regulations, the regulations govern.

Introduction

This document is provided as an informational tool for affected units in the following industries: Pipeline Transportation of Natural Gas, Cement and Concrete Product Manufacturing, Iron and Steel Mills and Ferroalloy Manufacturing, Glass and Glass Product Manufacturing, Metal Ore Mining, Basic Chemical Manufacturing, Petroleum and Coal Products Manufacturing, Pulp, Paper, and Paperboard Mills, and Municipal Waste Combustors subject to the Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards (40 CFR 52.40 - 52.46). The applicability criteria in the Good Neighbor Plan for affected units in each of these industry sectors are summarized in the table below.

Industry	NAICS Code	Emissions Unit Type	Applicability Criteria
Pipeline Transportation of Natural Gas	4862	Natural gas-fired Reciprocating Internal Combustion Engines	Nameplate rating of ≥1000 braking horsepower (bhp) and is not an emergency engine
Cement and Concrete Product Manufacturing	3273	Kilns	Directly emits or has the potential to emit 100 tons per year (tpy) or more of NO _x on or after August 4, 2023
Iron and Steel Mills and Ferroalloy Manufacturing	3311	Reheat Furnaces	Directly emits or has the potential to emit 100 tpy or more of NO _x on or after August 4, 2023, and does not have low-NO _x burners installed
Glass and Glass Product Manufacturing	3272	Furnaces	Directly emits or has the potential to emit 100 tpy or more of NO _x on or after August 4, 2023
Iron and Steel Mills and Ferroalloy Manufacturing Metal Ore Mining Basic Chemical Manufacturing	3311 2122 3251 3241 3221	Boilers	Design capacity of ≥100 mmBtu/hr that receives 90% or more of its heat input from coal, residual oil, distillate oil, natural gas, or combinations of

Petroleum and Coal Products Manufacturing Pulp, Paper, and Paperboard Mills			these fuels in the previous ozone season and is not a low-use boiler under 40 CFR 52.45(b)(2).
Solid Waste Combustors and Incinerators	562213	Combustors or Incinerators	Design capacity ≥ 250 tons of waste/day

40 CFR 52.40(e)(1) states:

The owner or operator of an existing affected unit under § 52.41, § 52.42, § 52.43, § 52.44, § 52.45, or § 52.46 that cannot comply with the applicable requirements in those sections due to technical impossibility or extreme economic hardship may submit to the Administrator, by August 5, 2024, a request for approval of a case-by-case emissions limit.

The request shall contain information sufficient for the Administrator to confirm that the affected unit is unable to comply with the applicable emissions limit, due to technical impossibility or extreme economic hardship, and to establish an appropriate alternative case-by-case emissions limit for the affected unit.

Until a case-by-case emissions limit has been approved by the Administrator under this section, the owner or operator shall remain subject to all applicable requirements in § 52.41, § 52.42, § 52.43, § 52.44, § 52.45, or § 52.46. A denial will be effective as of the date of denial.

Procedures and Criteria

Under 40 CFR 52.40(e)(2), each request for a case-by-case emissions limit shall include, but not be limited to, the following¹:

- i. A demonstration that the affected unit cannot achieve the applicable emissions limit with available control technology due to technical impossibility or extreme economic hardship.
 - (A) A demonstration of technical impossibility shall include:
 - 1) Uncontrolled NO_x emissions for the affected unit established with a CEMS, or stack tests obtained during steady state operation in accordance with test methods approved by the EPA;² and
 - 2) A demonstration that the affected unit cannot meet the applicable emissions limit even with available control technology, including:
 - i. Stack test data or other emissions data for the affected unit; or

¹ The numbering in this section corresponds with the numbering in 40 CFR 52.40(e)(2).

² Approved test methods are the applicable reference test methods of 40 CFR part 60, appendix A-4, any alternative test method approved by the EPA as of June 5, 2023, under 40 CFR 59.104(f), 60.8(b)(3), 61.13(h)(1)(ii), 63.7(e)(2)(ii)(2), or 65.158(a)(2) and available at the EPA's website (<https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods>), or other methods and procedures approved by the EPA through notice-and-comment rulemaking.

- ii. A third-party engineering assessment demonstrating that the affected unit cannot meet the applicable emissions limit with available control technology.
- (B) A demonstration of extreme economic hardship shall include:
- At least three vendor estimates of the costs of installing control technology necessary to meet the applicable emissions limit and
 - Other information that demonstrates, to the satisfaction of the Administrator, that the cost of complying with the applicable emissions limit would present an extreme economic hardship relative to the costs borne by other comparable sources in the industry.
- ii. An analysis of available control technology options and a proposed case-by-case emissions limit that represents the lowest emissions limitation technically achievable by the affected unit without causing extreme economic hardship relative to the costs borne by other comparable sources in the industry. The owner or operator may propose additional measures to reduce NO_x emissions, such as operational standards or work practice standards.
 - iii. Calculations of the NO_x emissions reduction to be achieved through implementation of the proposed case-by-case emissions limit and any additional proposed measures, the difference between this NO_x emissions reduction level and the NO_x emissions reductions that would have occurred if the affected unit complied with the applicable emissions limitations in § 52.41, § 52.42, § 52.43, § 52.44, § 52.45, or § 52.46, and a description of the methodology used for these calculations.

Submission Method and Deadline

Each request for approval of a case-by-case emissions limit shall be submitted electronically using the Compliance and Emissions Data Reporting Interface (CEDRI) through EPA's [Central Data Exchange](#) or analogous electronic submission system provided by the EPA. The request shall be submitted no later than August 5, 2024, and in PDF format.

CEDRI is a web-based application for the electronic reporting of various reports required in 40 CFR Parts 52, 60, 62 and 63. Instructions for registering with and submitting requests to CEDRI can be found in the [CEDRI CDX User Guide](#).

EPA Action on Submitted Requests

Under 40 CFR 52.40(e)(5)-(8), EPA will act on each request for a case-by-case emissions limit in accordance with the following procedures:

1. Completeness determination: The Administrator will provide written notification to the owner or operator of an affected unit who has requested a case-by-case emissions limit under 40 CFR 52.40 (e)(5) of whether the submitted request is complete, that is, whether the request contains sufficient information to make a determination, within 60 calendar days after receipt of the original request and within 60 calendar days after receipt of any supplementary information.

2. Notification of approval or intent to deny a request: The Administrator will provide written notification, which shall be publicly available, to the owner or operator of a decision to approve or intention to deny the request within 60 calendar days after providing notification that the submitted request is complete.
 - a. Before denying any request for a case-by-case emissions limit, the Administrator will provide written notification to the owner or operator in writing of the Administrator's intention to issue the denial, together with:
 - i. Notice of the information and findings on which the intended denial is based; and
 - ii. Notice of opportunity for the owner or operator to present via the CEDRI or analogous electronic submission system provided by the EPA, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.
3. Final decision: The Administrator's final decision to deny any request for a case-by-case emissions limit will be provided in writing and made publicly available and will set forth the specific grounds on which the denial is based. The final decision will be made within 60 calendar days after presentation of additional information or argument (if the request is complete), or within 60 calendar days after the deadline for the submission of additional information or argument under 40 CFR 52.40(e)(7)(ii), if no such submission is made.

Under 40 CFR 52.40(e)(4), based on the information provided in any request made under 40 CFR 52.40(e)(4) or other information, the Administrator may approve a case-by-case emissions limit that will apply to an affected unit in lieu of the applicable emissions limit in § 52.41, § 52.42, § 52.43, § 52.44, § 52.45, or § 52.46. The decision to approve a case by-case emissions limit will be provided in writing and made publicly available and will identify each affected unit covered by the case by-case emissions limit.

Incorporation of Case-by-Case Limits into Title V Permits

Under 40 CFR 52.40(e)(3), the owner or operator of an affected unit who has requested a case-by-case emissions limit under 40 CFR 52.40(e)(3) and is required to have a title V permit shall apply to have the relevant title V permit revised to incorporate the case-by-case emissions limit. Any case-by-case emissions limit approved under 40 CFR 52.40(e)(3) will be incorporated into the affected unit's title V permit according to the provisions of an EPA-approved state operating permit program or the Federal title V regulations in 40 CFR part 71, whichever apply.

If you are having difficulty accessing this information, please contact:

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