

FACT SHEET

PROPOSED AMENDMENTS OUTLINING REQUIREMENTS FOR STATES TO SET CASE-BY-CASE EMISSION STANDARDS WHEN NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS ARE NOT IN PLACE (CLEAN AIR ACT SECTION 112(J) RULE)

ACTION

- On March 24, 2010, the Environmental Protection Agency (EPA) proposed amendments to its rule that requires states to establish case-by-case emission limits for toxic air pollutants when national standards are not in place. This rule is often referred to as the Clean Air Act section 112(j) rule. The amendments would clarify what states need to do when there is a complete vacatur of a National Emission Standard for Hazardous Air Pollution (NESHAP). A vacatur nullifies or voids a promulgated rule.
- The Clean Air Act requires EPA to identify categories of industrial sources that emit one or more of the listed 187 toxic air pollutants. For major emitters within each source category, the Act requires EPA to develop national standards that restrict emissions of hazardous air pollutants to levels reflecting the maximum achievable control technology (MACT). Major sources are those that emit 10 tons a year or more of a single toxic pollutant or 25 tons a year or more of a combination of air toxics.
- The current section 112(j) rule does not specifically address how states must permit facilities when a national standard has been vacated by the courts. The proposed amendments would clarify how and when a source would submit a title V permit application or revision for case-by-case MACT.
- The proposed amendments would immediately affect major sources previously subject to the now-vacated NESHAP for the Polyvinyl Chloride and Copolymers Production (PVC), Brick and Structural Clay Products Manufacturing (Brick), Clay Ceramics Manufacturing (Clay), and the Industrial, Commercial and Institutional Boilers and Process Heaters (Boilers) source categories. Sources in these categories would have to submit permit applications within 90 days after promulgation of these amendments.
- EPA estimates that about 19 PVC facilities, 122 Brick facilities, 8 Clay facilities, and 15,500 Boilers at major sources would be affected by this action.

COST

- EPA estimates total nationwide annual costs of \$6.59 million over the first three years after promulgation of these amendments to the section 112(j) rule. This includes the cost of preparing and submitting a title V permit application and costs associated with review of the application.

BACKGROUND

- Section 112(j) of the Clean Air Act applies when the Administrator fails to promulgate NESHAP by their scheduled date. Major sources must apply for a permit application or revision beginning 18 months after the missed date.
- The section 112(j) rule was originally promulgated in 1994. In 2005, EPA completed promulgation of NESHAP for all listed source categories.
- The section 112(j) rule, however, did not include the situation when a NESHAP is vacated and does not address the timing or process of permit applications.
- A NESHAP vacatur has the same effect as a failure to promulgate and thus section 112(j) also applies when a NESHAP is vacated.

HOW TO COMMENT

- EPA will accept comment on the proposal for 30 days after publication in the Federal Register. Comments, identified by Docket ID No. EPA-HQ-OAR-2009-0746, may be submitted by one of the following methods:
 - www.regulations.gov: Follow the on-line instructions for submitting comments.
 - E-mail: Comments may be sent by electronic mail (e-mail) to a-and-r-Docket@epa.gov.
 - Fax: Fax your comments to: 202-566-1741.
 - Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460.
 - Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, Room 3334, 1301 Constitution Ave., NW, Washington, DC, 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR MORE INFORMATION

- To download this proposed rule from EPA's Web site, go to Recent Actions at <http://www.epa.gov/ttn/oarpg/new.html>.
- Today's action and other background information are also available either electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located at EPA Headquarters, room number 3334 in the EPA West Building, 1301 Constitution Avenue, NW, Washington, DC.

Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding Federal holidays.

- Visitors are required to show photographic identification, pass through a metal detector and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Materials for this proposed action can be accessed using Docket ID No. EPA-HQ-OAR-2009-0746.
- For further information about the proposed amendments, contact Mr. Rick Colyer at EPA's Office of Air Quality Planning and Standards at 919-541-5262.