

May 8, 2003

FACT SHEET

Final Amendments to the “General Provisions” of National Emission Standards for Hazardous Air Pollutant Emissions

Final Amendments to Clean Air Act’s “Section 112 (j) Rule”

TODAY’S ACTION

- The Environmental Protection Agency (EPA) today promulgated 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 actions amends 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 amending its rule known as the “Section 112(j) rule.” The Section 112(j) rule currently affects over 40 categories of industry for which EPA has yet to issue national air toxics emissions standards. The Agency is in the process of proposing or finalizing the eighteen rules to cover these facilities.
- The amended 112(j) rule requires states to establish case-by-case maximum achievable control technology (MACT) in a source’s permit only if EPA does not finalize the air toxics 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 air toxics emissions 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 settlement agreement EPA reached with the Sierra Club on November 26, 2002.

FINAL AMENDMENT REQUIREMENTS - GENERAL PROVISIONS

- Today’s final amendments require an affected source to submit a copy of its startup, shutdown, and malfunction plan (SSMP) to its state, tribal or local environmental

enforcement agency, if requested by its 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 amendments also eliminate summary reporting of startups and shutdowns if the SSMP is followed during those periods.
- The amendments clarify that during periods of startup, shutdown, and malfunction, the emissions standard need not be attained but the facility must reduce emissions to the greatest extent consistent with safety and good air pollution control practices.

FINAL AMENDMENT REQUIREMENTS - SECTION 112(j) RULE

- EPA's April 5, 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 and other basic information. Part 2 is a more detailed application that can be used by the state to set emission limits on a facility-by-facility basis.
- Today's amendments to the Section 112(j) rule tie submittal of the Part 2 application to EPA's schedule for issuing national air toxics standards; specifically, the Part 2 application will be due 60 days after the scheduled date for promulgating an air toxics standard, if that standard has not yet been promulgated.
- The amendments also allow facilities that previously requested an applicability determination to resubmit those requests within 60 days after proposal of a relevant national air toxics standard or 60 days after promulgation of these amendments, whichever is later, if the source is still unable to determine whether the 112(j) rule applies to it.
- The source must explain in the resubmittal why it cannot determine applicability after reviewing the relevant proposed national air toxics standard. The permitting authority would make a final applicability determination within 60 days.
- An applicability determination request is a request by an affected facility, 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 national air toxics standard for that source category before the facility is issued a permit containing case-by-case MACT requirements.

- The amendments also treat another review known as a “section 112(g) equivalency determination” as if it were a Part 2 application. A source may request a section 112(g) equivalency determination to satisfy its 112(j) case-by-case MACT requirements if it has already received a case-by-case MACT determination under section 112(g). The facility can request that the previous 112(g) determination be found equivalent to 112(j) case-by-case MACT, and thus streamline the process.
- Under 112(g), new major sources must apply for case-by-case MACT if a MACT standard has not been promulgated for them.
- Finally, these amendments reduce the amount of information required for the Part 2 application, easing some administrative burden.

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 amends 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 final 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.