

shall incorporate the applicable compliance date in the title V operating permit.

(2) If no compliance date has been established in the promulgated 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under this subpart, then the permitting authority shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a section 112(j) determination is made.

(c) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Administrator promulgates an emission standard under section 112(d) or section 112(h) of the Act or the permitting authority issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this subpart and which is the subject of a prior case-by-case MACT determination pursuant to § 63.43, and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the permitting authority is not required to incorporate any less stringent terms of the promulgated standard in the title V operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

[61 FR 68404, Dec. 27, 1996]

§§ 63.45–63.49 [Reserved]

§ 63.50 Applicability.

(a) *General applicability.* The requirements of §§ 63.50 through 63.56 implement section 112(j) of the Clean Air Act (as amended in 1990). The requirements of §§ 63.50 through 63.56 apply in each

State beginning on the effective date of an approved title V permit program in such State. These requirements apply to the owner or operator of a major source of hazardous air pollutants which includes one or more stationary sources included in a source category or subcategory for which the Administrator has failed to promulgate an emission standard under this part by the section 112(j) deadline.

(b) *Relationship to State and local requirements.* Nothing in §§ 63.50 through 63.56 shall prevent a State or local regulatory agency from imposing more stringent requirements than those contained in these subsections.

(c) *Retention of State permit program approval.* In order to retain State permit program approval, a State must, by the section 112(j) deadline for a source category, obtain sufficient legal authority to establish equivalent emission limitations, to incorporate those requirements into a title V permit, and to incorporate and enforce other requirements of section 112(j).

§ 63.51 Definitions.

Terms used in §§ 63.50 through 63.56 of this subpart that are not defined below have the meaning given to them in the Act, in subpart A of this part.

Available information means, for purposes of conducting a MACT floor finding and identifying control technology options for emission units subject to the provisions of this subpart, information contained in the following information sources as of the section 112(j) deadline:

(1) A relevant proposed regulation, including all supporting information;

(2) Background information documents for a draft or proposed regulation;

(3) Any regulation, information or guidance collected by the Administrator establishing a MACT floor finding

and/or MACT determination;

(4) Data and information available from the Control Technology Center developed pursuant to section 112(l)(3) of the Act, and

(5) Data and information contained in the Aerometric Informational Retrieval System (AIRS) including information in the MACT database, and

(6) Any additional information that can be expeditiously provided by the Administrator, and

(7) Any information provided by applicants in an application for a permit, permit modification, administrative amendment, or Notice of MACT Approval pursuant to the requirements of this subpart.

(8) Any additional relevant information provided by the applicant.

Control technology means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including, but not limited to, measures which:

(1) Reduce the quantity, or eliminate emissions, of such pollutants through process changes, substitution of materials or other modifications;

(2) Enclose systems or processes to eliminate emissions;

(3) Collect, capture, or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(4) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(5) Are a combination of paragraphs (1) through (4) of this definition.

Emission point means any part or activity of a major source that emits or has the potential to emit, under current operational design, any hazardous air pollutant.

Emission unit means any building, structure, facility, or installation. This could include an emission point or collection of emission points, within a major source, which the permitting authority determines is the appropriate entity for making a MACT determination under section 112(j), i.e., any of the following:

(1) An emission point that can be individually controlled.

(2) The smallest grouping of emission points, that, when collected together, can be commonly controlled by a single control device or work practice.

(3) Any grouping of emission points, that, when collected together, can be commonly controlled by a single control device or work practice.

(4) A grouping of emission points that are functionally related. Equip-

ment is functionally related if the operation or action for which the equipment was specifically designed could not occur without being connected with or without relying on the operation of another piece of equipment.

(5) The entire geographical entity comprising a major source in a source category subject to a MACT determination under section 112(j).

Enhanced review means a review process containing all administrative steps needed to ensure that the terms and conditions resulting from the review process can be incorporated into the title V permit by an administrative amendment.

Equivalent emission limitation means an emission limitation, established under section 112(j) of the Act, which is at least as stringent as the MACT standard that EPA would have promulgated under section 112(d) or section 112(h) of the Act.

Existing major source means a major source, construction or reconstruction of which is commenced before EPA proposed a standard, applicable to the major source, under section 112 (d) or (h), or if no proposal was published, then on or before the section 112(j) deadline.

Maximum achievable control technology (MACT) emission limitation for existing sources means the emission limitation reflecting the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory to which such emission standard applies. This limitation shall not be less stringent than the MACT floor.

Maximum achievable control technology (MACT) emission limitation for new sources means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where

achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory to which such emission standard applies.

Maximum Achievable Control Technology (MACT) floor means:

(1) For existing sources:

(i) The average emission limitation achieved by the best performing 12 percent of the existing sources in the United States (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined in section 171 of the Act) applicable to the source category and prevailing at the time, in the category or subcategory, for categories and subcategories of stationary sources with 30 or more sources; or

(ii) The average emission limitation achieved by the best performing five sources in the United States (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory, for a category or subcategory of stationary sources with fewer than 30 sources;

(2) For new sources, the emission limitation achieved in practice by the best controlled similar source.

New emission unit means an emission unit for which construction or reconstruction is commenced after the section 112(j) deadline, or after proposal of a relevant standard under section 112(d) or section 112(h) of the Clean Air Act (as amended in 1990), whichever comes first, except that, as provided by § 63.52(f)(1), an emission unit, at a major source, for which construction or reconstruction is commenced before the date upon which the area source becomes a major source, shall not be considered a new emission unit if, after the addition of such emission unit, the source is still an area source.

New major source means a major source for which construction or reconstruction is commenced after the section 112(j) deadline, or after proposal of a relevant standard under section 112(d) or section 112(h) of the Clean Air Act (as amended in 1990), whichever comes first.

Permitting authority means the permitting authority as defined in part 70 of this chapter.

Section 112(j) deadline means the date 18 months after the date by which a relevant standard is scheduled to be promulgated under this part, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the section 112(j) deadline is December 15, 1999.

Similar source means an emission unit that has comparable emissions and is structurally similar in design and capacity to other emission units such that the emission units could be controlled using the same control technology.

Source category schedule for standards means the schedule for promulgating MACT standards issued pursuant to section 112(e) of the Act.

United States means the United States, its possessions and territories.

[59 FR 26449, May 20, 1994, as amended at 61 FR 21372, May 10, 1996; 64 FR 26314, May 14, 1999]

§ 63.52 Approval process for new and existing emission units.

(a) *Application.* (1) Except as provided in § 63.52(a)(3), if the Administrator fails to promulgate an emission standard under this part on or before an applicable section 112(j) deadline for a source category or subcategory, the owner or operator of an existing major source that includes one or more stationary sources in such category or subcategory, shall submit an application for a title V permit or application for a significant permit modification, whichever is applicable, by the section 112(j) deadline.