

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.

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§ 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.

(2) 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 a new emission unit in such source category or subcategory shall submit an application for a title V permit or application for a significant permit modification or administrative amendment, whichever is applicable, in accordance with procedures established under title V.

(3)(i) The owner or operator of an existing major source that already has a title V permit requiring compliance with a limit that would meet the requirements of section 112(j) of the Act, shall submit an application for an administrative permit amendment, by the section 112(j) deadline, in accordance with procedures established under title V.

(ii) The owner or operator of a new emission unit that currently complies with a federally enforceable alternative emission limitation, or has a title V permit that already contains emission limitations substantively meeting the requirements of section 112(j), shall submit an application for an administrative permit amendment confirming compliance with the requirements of section 112(j), in accordance with procedures established under title V, and not later than the date 30 days after the date construction or reconstruction is commenced.

(4) In addition to meeting the requirements of § 63.52(a)(2), the owner or operator of a new emission unit may submit an application for a Notice of MACT Approval before construction, pursuant to § 63.54.

(b) *Permit review.* (1) Permit applications submitted under this paragraph will be reviewed and approved or disapproved according to procedures established under title V, and any other regulations approved under title V in the jurisdiction in which the emission unit is located. In the event that the permitting authority disapproves a permit application submitted under this paragraph or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the objections of the permitting authority not later

than six months after first being notified that the application was disapproved or is incomplete.

(2) If the owner or operator has submitted a timely and complete application for a title V permit, significant permit modification, or administrative amendment required by this paragraph, any failure to have this permit will not be a violation of the requirements of this paragraph, unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.

(c) *Emission limitation.* The permit or Notice of MACT Approval, whichever is applicable, shall contain an equivalent emission limitation (or limitations) for that category or subcategory determined on a case-by-case basis by the permitting authority, or, if the applicable criteria in subpart D of this part are met, the permit or Notice of MACT Approval may contain an alternative emission limitation. For the purposes of the preceding sentence, early reductions made pursuant to section 112(i)(5)(A) of the Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(1) The permit or Notice will contain an emission standard or emission limitation to control the emissions of hazardous air pollutants. The MACT emission limitation will be determined by the permitting authority and will be based on the degree of emission reductions that can be achieved, if the control technologies or work practices are installed, maintained, and operated properly. Such emission limitation will be established consistent with the principles contained in § 63.55.

(2) The permit or Notice will specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements. The permit or Notice will include the following information:

(i) In addition to the MACT emission limitation required by paragraph (c)(1) of this section, additional emission limits, production limits, operational limits or other terms and conditions

necessary to ensure federal enforceability of the MACT emission limitation;

(ii) Compliance certifications, testing, monitoring, reporting and record-keeping requirements that are consistent with requirements established pursuant to title V, §63.52(e), and, at the discretion of the permitting authority, to subpart A of this part;

(iii) A statement requiring the owner or operator to comply with all requirements contained in subpart A of this part deemed by the permitting authority to be applicable;

(iv) A compliance date(s) by which the owner or operator shall be in compliance with the MACT emission limitation, and all other applicable terms and conditions of the Notice.

(d)(1) *Compliance date.* The owner or operator of an existing major source subject to the requirements of this paragraph shall comply with the emission limitation(s) established in the source's title V permit. In no case will such compliance date exceed 3 years after the issuance of the permit for that source, except where the permitting authority issues a permit that grants an additional year to comply in accordance with section 112(i)(3)(B), or unless otherwise specified in section 112(i), or in subpart D of this part.

(2) The owner or operator of a new emission unit subject to the requirements of this paragraph shall comply with a new source MACT level of control immediately upon issuance of the title V permit for the emission unit.

(e) *Enhanced monitoring.* In accordance with section 114(a)(3) of the Act, monitoring shall be capable of detecting deviations from each applicable emission limitation or other standard with sufficient reliability and timeliness to determine continuous compliance over the applicable reporting period. Such monitoring data may be used as a basis for enforcing emission limitations established under this subpart.

(f) *Area sources that become major sources.* (1) After the effective date of this subpart, the owner or operator of a new or existing area source that increases its emissions of, or its potential to emit, hazardous air pollutants such that the source becomes a major

source that is subject to this subpart shall submit an application for a title V permit or application for a significant permit modification, or administrative amendment, whichever is applicable, by the date that such source becomes a major source.

(i) If an existing area source becomes a major source by the addition of an emission unit or as a result of reconstructing, that added emission unit or reconstructed emission unit shall comply with all requirements of this subpart that affect new emission units, including the compliance date for new emission units established in §63.52(d).

(ii) If an area source, constructed after the section 112(j) deadline, becomes a major source solely by virtue of a relaxation in any federally enforceable emission limitation, established after the section 112(j) deadline, on the capacity of an emission unit or units to emit a hazardous air pollutant, such as a restriction on hours of operation, then that emission unit or units shall comply with all requirements of this subpart that affect new emission units, on or before the date of such relaxation.

(2) After the effective date of this subpart, if the Administrator establishes a lesser quantity emission rate under section 112(a)(1) of the Act that results in an area source becoming a major source, then the owner or operator of such major source shall submit an application for a title V permit or application for a significant permit modification, or administrative amendment, whichever is applicable, on or before the date 6 months from the date that such source becomes a major source. If an existing area source becomes a major source as a result of the Administrator establishing a lesser quantity emission rate, then any emission unit, at that source, for which construction or reconstruction is commenced before the date upon which the source becomes major shall not be considered a new emission unit.

§ 63.53 Application content for case-by-case MACT determinations.

(a) *MACT Demonstration.* Except as provided by §63.55(a)(3), an application