

§§ 63.45–63.49 [Reserved]

§ 63.50 Applicability.

(a) *General applicability.* (1) The requirements of this section through § 63.56 implement section 112(j) of the Clean Air Act (as amended in 1990). The requirements of this section through § 63.56 apply in each State beginning on the effective date of an approved title V permit program in such State. The requirements of this section through § 63.56 do not apply to research or laboratory activities as defined in § 63.51.

(2) The requirements of this section through § 63.56 apply to:

(i) The owner or operator of affected sources within a source category or subcategory under this part that are located at a major source that is subject to an approved title V permit program and for which the Administrator has failed to promulgate emission standards by the section 112(j) deadlines. If title V applicability has been deferred for a source category, then section 112(j) is not applicable for sources in that category within that State, local or tribal jurisdiction until those sources become subject to title V permitting requirements; and

(ii) Permitting authorities with an approved title V permit program.

(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, as a matter of State or local law, than those contained in §§ 63.50 through 63.56.

(c) The procedures in §§ 63.50 through 63.56 apply for each affected source only after the section 112(j) deadline for the source category or subcategory in question has passed, and only until such time as a generally applicable Federal standard governing that source has been promulgated under section 112(d) or 112(h) of the Act. Once a generally applicable Federal standard governing that source has been promulgated, the owner or operator of the affected source and the permitting authority are not required to take any further actions to develop an equivalent emission limitation under section 112(j) of the Act.

(d) Any final equivalent emission limitation for an affected source which

is issued by the permitting authority pursuant to §§ 63.50 through 63.56 prior to promulgation of a generally applicable Federal standard governing that source under section 112(d) or 112(h) of the Act shall be deemed an applicable Federal requirement adopted pursuant to section 112(j) of the Act. Each such equivalent emission limitation shall take effect upon issuance of the permit containing that limitation under section 112(j)(5) of the Act, and shall remain applicable to the source until such time as it may be revised or supplanted pursuant to the procedures established by §§ 63.50 through 63.56. Such a final equivalent emission limitation, and all associated requirements adopted pursuant to § 63.52(f)(2), are directly enforceable under Federal law regardless of whether or not any permit in which they may be contained remains in effect.

[59 FR 26449, May 20, 1994, as amended at 67 FR 16605, Apr. 5, 2002; 68 FR 32601, May 30, 2003]

§ 63.51 Definitions.

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

Affected source means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a section 112(c) source category or subcategory for which the Administrator has failed to promulgate an emission standard by the section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to this subpart.

Available information means, for purposes of conducting a MACT floor finding and identifying control technology options under this subpart, any information that is available as of the date on which the first Part 2 MACT application is filed for a source in the relevant source category or subcategory in the State or jurisdiction; and, pursuant to the requirements of this subpart, is additional relevant information that can be expeditiously provided by the Administrator, is submitted by the applicant or others prior to or during

the public comment period on the section 112(j) equivalent emission limitation for that source, or information contained in the information sources in paragraphs (1) through (5) of this definition.

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

(2) Relevant background information documents for a draft or proposed regulation.

(3) Any relevant regulation, information or guidance collected by the Administrator establishing a MACT floor finding and/or MACT determination.

(4) Relevant data and information available from the Clean Air Technology Center developed pursuant to section 112(1)(3) of the Act.

(5) Relevant data and information contained in the Aerometric Information Retrieval System (AIRS).

(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.

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 using title V permitting procedures.

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

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 (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory, for categories or subcategories with fewer than 30 sources;

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

New affected source means the collection of equipment, activities, or both, that if constructed after the issuance of a section 112(j) permit for the source pursuant to § 63.52, is subject to the applicable MACT emission limitation for new sources. Each permit must define the term “new affected source,” which will be the same as the “affected source” unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (*e.g.*, product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

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

Research or laboratory activities means activities whose primary purpose is to conduct research and development into new processes and products where such activities are operated under the close supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de mini-

mis manner; and where the source is not in a source category, specifically addressing research or laboratory activities, that is listed pursuant to section 112(c)(7) of the Act.

Section 112(j) deadline means the date 18 months after the date for 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 that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

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

[59 FR 26449, May 20, 1994, as amended at 61 FR 21372, May 10, 1996; 64 FR 26314, May 14, 1999; 67 FR 16605, Apr. 5, 2002]

§ 63.52 Approval process for new and existing affected sources.

(a) *Sources subject to section 112(j) as of the section 112(j) deadline.* The requirements of paragraphs (a)(1) and (2) of this section apply to major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued to the source pursuant to the requirements of the subpart, must apply to such sources.

(1) The owner or operator must submit an application for a title V permit or for a revision to an existing title V