

Implementation of Section 112(g) of the Clean Air Act

Introduction

On December 15, 1996, the United States Environmental Protection Agency (EPA) promulgated the final regulations implementing Section 112(g)(2)(B) (Section 112(g)) of the Clean Air Act. Section 112(g) addresses new and reconstructed major sources of hazardous air pollutants (HAPs). A primary requirement of this section is that these sources apply Maximum Achievable Control Technology (MACT) for control of HAPs. EPA is required under Section 112(d) of the Clean Air Act to develop MACT standards for a list of source categories that are designated as major sources of HAPs. Section 112(g) is intended to address those sources for which EPA has not established a source-specific MACT standard, until a source-specific MACT standard is developed. In this sense it is said that Section 112(g) is the “case-by-case” MACT standard. An 18-month time frame is provided to allow the state to make any necessary changes to its rules and regulations to effectively implement the program.

Following is a brief explanation of the regulations, a general description of what the state must do to comply with the regulations, and a discussion of Air Quality Division’s (AQD) program to meet these requirements.

What do the Section 112(g) regulations require?

The Section 112(g) regulations consist of five (5) sections under 40 CFR Part 63, being §63.40 through §63.44. The regulation covers constructed (“new”) and reconstructed major sources of HAPs. A major source emits or has the potential to emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs. Of note is a distinction between sources constructed at a “greenfield” site and those constructed at an existing site.

Requirements necessary for states to implement this regulation include an 18-month time frame to adopt and implement a program. Implementation can be through a Part 70 (Title V) program, an existing new source review program, or in some other manner that encompasses all of the requirements of the regulation. A public notice that the state is implementing the program, submittal of a written description of the program to EPA, and a certification by the “chief permitting authority” that the program covers everything in the regulation (also sent to EPA) are the primary administrative requirements. Note that a submittal to revise the State Implementation Plan (SIP) to include rules promulgated to adopt and implement the program is *not* required. A significant provision in this section is that if the state fails to adopt and implement an acceptable program within the 18-month time frame, the regulations still become effective in the state, the state must still make all required MACT determinations, but all determinations must be submitted to EPA for approval. This continues until the state adopts and implements an acceptable program. The AQD will have a program in place such that no determinations should need to be submitted to EPA for approval.

Important administrative requirements include specific timelines for review of an application for completeness (45 days), for acting on the application once it’s complete (30 days), and for disapproval of the application (number of days varies depending on the action of the applicant). Certain information is required in the notice of determination, and public comment is required on *all* determinations. EPA must be copied on all determinations, and must be provided an electronic copy for inclusion in the MACT data base.

Air Quality Division's Program

Section 112(g) is basically a preconstruction review program for new and reconstructed major sources of HAPs. AQD is implementing the Section 112(g) program in conjunction with its existing minor new source review program. The AQD has adopted, by reference, the federal regulations in Rule 299(e).

The AQD Permit Section will be reviewing all applications for sources subject to Section 112(g). The section is developing a specific checklist for permit applicants subject to Section 112(g). Also, the section is developing internal forms, such as notification letter and staff report templates, to ease implementation of the program. Standard public notification procedures will be sufficient for program implementation.

The Permit Section estimates that this program will affect less than 10 percent of permit applications received. A significant effect of this program is that it is similar to the federal Prevention of Significant Deterioration program in that sources cannot be issued waivers to allow construction prior to issuance of a permit.

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