



Division of Air Quality
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West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Secretary

December 28, 2001

KEYBOARD(contact name)
KEYBOARD(title)
KEYBOARD(company name)
KEYBOARD(street address)
KEYBOARD(city, state, zip code)

RE: ☛ Title V Permitting Requirements for 112(j) MACT Sources
☛ MACT Hammer Deadline - May 15, 2002
Plant ID No. KEYBOARD(ID #) KEYBOARD(company name)

Dear KEYBOARD(salutation):

This letter is to inform you that your facility **may** have an upcoming Title V permitting obligation to submit an application for a case-by-case Maximum Achievable Control Technology (MACT) requirement per 112(j) of the 1990 Clean Air Act Amendments (CAAA). Under current federal requirements this Title V permit application update or application for a significant permit modification must be submitted by May 15, 2002.

Sources that May be Subject to the 112(j) Permitting Process

The United States Environmental Protection Agency (US EPA) was to have completed promulgation of all MACT standards pursuant to 112(d) of the 1990 CAAA by November 15, 2000. If within 18 months of this date (by May 15, 2002), US EPA has still not promulgated final MACT standards for all listed source categories, then the "MACT hammer" is triggered, and facilities must submit an application concerning these source categories to the states. States must then perform a case-by-case determination of equivalent emission limitations for a particular MACT source category through the Title V permitting program.

A list of source categories subject to MACT standards which US EPA will *not* have promulgated before the May 15, 2002 hammer date is enclosed. Facilities that are "major sources" **and** that have any of the listed source categories will be required to submit 112(j) applications through the Title V permitting process. A "major source" in the context of 112(j) requirements for air toxics refers to a facility that emits or has the potential to emit in the aggregate (and including fugitive emissions) 10 ton/year or more of any Hazardous Air Pollutant (HAP), or 25 ton/yr or more of any combination of HAPs.

US EPA does plan to have proposed MACT standards for most of the source categories on the enclosed list by the May 15, 2002 hammer date. These are to be used as a basis for the case-by-case 112(j) MACT proposals by sources; however, final determinations are made by the states. Proposed (and subsequently final) federal MACT standards and source category descriptions can be obtained from US EPA's Air Toxics Website as they become available. From www.epa.gov/ttn/atw, go to the "Rules and Implementation" link, and follow either the "Table of Proposed Regulations" or "Table of Completed Regulations" links.

Current Requirements of the 112(j) Permitting Process

Currently, if US EPA fails to promulgate the remaining MACT standards by May 15, 2002, the owner or operator of an existing major source ("affected source") that includes one or more listed MACT source category, must submit a Title V permit update or application for a significant permit modification by the hammer date. Please be aware that any new emission unit ("new affected source") located at a major source that would fall within the outstanding source category list is required to go through a *preconstruction* permit review (such as a 112(g) case-by-case review and/or minor New Source Review) before the new unit may be constructed.

The application content for a typical 112(j) case-by-case MACT determination of equivalent emission limitations can be found in 40 CFR 63.53 and 40 CFR 63.55. This application content is quite substantive and includes such requirements as identification of the sources and HAPs in the 112(j) source category, identification of the control technology in place or proposed for each emission point, information relevant to establishing the MACT floor, and other information required by the permitting authority.

US EPA's Proposed Changes to the 112(j) Permitting Process

However, you should be aware that US EPA proposed revisions to the 112(j) rule on March 23, 2001. In these revisions, US EPA proposes to provide for a 2-part application process for sources subject to the 112(j) case-by-case provisions which include, if promulgated, the following requirements:

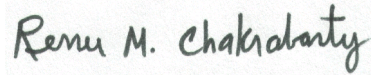
- A Part 1 Application submitted under Title V on the 112(j) hammer date of May 15, 2002. In this Part 1 Application sources will identify their name, location, brief description of the source, and identification of the sources belonging to the 112(j) source category.
- A Part 2 Application submitted by November 15, 2002 (within 6 months of the 112(j) hammer date). The Part 2 Application requires a list of HAPs emitted by each affected source, a list of Federal or State limitations and requirements applicable to the source, identification of the control technology in place for each emission point, information relevant to establishing the MACT floor (a baseline emission rate) and, as an option to the owner/operator, a recommended MACT floor, and other information if required by the permitting authority.

After a Part 2 Application is submitted, there is a 60 day period in which to determine completeness. A determination of completeness does not relieve the permit applicant of the requirement to subsequently submit, in a timely manner, any additional or corrected information deemed necessary for permit approval. US EPA is scheduled to finalize these proposed revisions to the 112(j) rule in February 2002 under a court-ordered deadline.

The Division of Air Quality (DAQ) plans to work with all 112(j) sources to ensure that these required standards are established in the most efficient and consistent manner possible. DAQ is pursuing further flexibility in the permitting timelines and relief from resource burdens that the 112(j) MACT hammer process imposes on regulated sources and the agency through several channels. For example, DAQ plans to support efforts of the Environmental Council of the States (ECOS); ECOS

is requesting more flexibility in the MACT hammer permitting timelines in a letter to US EPA's

Administrator and Director of the Office of Management and Budget that will be signed by top-ranking environmental commissioners. Additionally, DAQ is working with the organization of state and local agencies, State and Territorial Air Pollution Program Administrators/ Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) on this issue. If you believe that your facility will be affected by the Title V/112(j) case-by-case MACT process, or if you have any questions, please contact me at (304) 926-3627 as soon as possible.



Sincerely,

Renu M. Chakrabarty
Air Toxics Coordinator

cc: Stephanie R. Timmermeyer, Director
Terry L. Polen, P.E., Q.E.P., Assistant Chief for Permitting

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