

memorandum

DATE: April 4, 2001

REPLY TO: Office of Environmental Policy and Guidance:Koss:6-7964
ATTN OF:

SUBJECT: Proposed Amendments to the Clean Air Act General Provisions of the National Emission Standards for Hazardous Air Pollutants, and Proposed Amendments to Section 112(j) Equivalent Emission Limitations, for Review and Comment

TO: Distribution

On March 23, 2001, the Environmental Protection Agency (EPA) issued proposed amendments in the *Federal Register* (at 66 *FR* 16318) to the General Provisions in Subpart A of 40 *CFR* Part 63, "National Emission Standards for Hazardous Air Pollutants for Source Categories". The General Provisions establish the framework for emission standards and other requirements developed under §112 of the Clean Air Act (CAA) for sources subject to Part 63. Many of the proposed amendments are relaxations of existing requirements resulting from settlement negotiations between EPA and litigants who filed for review of the General Provisions. The Part 63 General Provisions do not apply to the 40 *CFR* Part 61, Subpart H, national emission standards for radionuclides, nor to other hazardous air pollutants regulated under Part 61. A copy of these proposed amendments may be downloaded from the Web Site of the Office of Environmental Policy and Guidance (EH-41) at: <http://tis.eh.doe.gov/oepa/rules/66/66fr16317.pdf>. A four-page EPA fact sheet on the proposal can be found at: http://www.epa.gov/ttn/oarpg/t3/fact_sheets/gpfs.pdf.

The proposed amendments to the General Provisions cover the following topics:

- inclusion of a table in each subpart to Part 63 specifying which of the Subpart A General Provisions are and are not included in such subpart
- modifications to various terms in the 40 *CFR* 63.2 "Definitions" section, including the definition of an "affected source"
- prohibiting the division of an operation within the same facility among various owners to avoid applicability of the Part 63 requirements
- changes to the preconstruction review requirements at 40 *CFR* 63.5
- changes to the requirements for startup, shutdown, and malfunction plans, including changes to the general duty clause in 40 *CFR* 63.6 relating to good operation and maintenance of air pollution control equipment
- relaxation of the date to request compliance extensions under §112(i)(3)
- changes to compliance requirements for area sources that become major sources due to increased emissions
- changes to requirements related to performance tests and alternative test methods
- changes to requirements for continuous monitoring systems and the accessibility of readouts from monitoring systems
- changes to various requirements relating to notifications that an affected source must provide to EPA or the State

- changes to submittal requirements for applications for approval of construction of new major sources
- various changes to achieve clarification and consistency of existing requirements in the General Provisions.

As part of the same *Federal Register* notice, EPA also issued proposed amendments to 40 *CFR* 63.50 - 63.56 which implement §112(j) of the CAA. Section 112(j) is entitled "Equivalent Emission Limitation by Permit". Section 112(j)(2) provides that the provisions of §112(j) apply if the EPA misses a deadline for promulgation of an emission standard under §112(d) established in the source category schedule for standards. After the effective date of a Title V permit program in a State, §112(j)(3) requires the owner or operator of a major source in a source category for which the EPA failed to promulgate a §112(d) standard, to submit a permit application to EPA or the State 18 months after the missed promulgation deadline. Section 112(j)(5) states that the permit, to be issued under Title V, shall contain emission limitations that would apply to the source if the standard had been promulgated in a timely manner. Alternatively, if the applicable criteria for voluntary early reductions established under §112(i)(5) are met, such emission limit satisfies the requirements of §112(j), provided that the emission reductions are achieved by the missed promulgation date. The proposed amendments are intended to clarify existing requirements to better address timing and applicability issues.

We recommend that Department of Energy field and contractor personnel examine the proposed amendments to evaluate their applicability to their hazardous air pollutant sources. Please submit any comments you may have on the proposed rule to Emile Boulos of my staff (e-mail: emile.boulos@eh.doe.gov, fax: 202-586-3915) by May 7, 2001. To facilitate preparation of a comment package, please reference the *Federal Register* page that the comment applies to. Questions or concerns regarding the rule should be directed to Mr. Boulos at (202) 586-1306.

(Original signed by Andy Lawrence)

Andy Lawrence
Director
Office of Environmental Policy and
Guidance