

11/19/01

FACT SHEET
CHANGE IN DEFINITION OF MAJOR SOURCE
FOR OPERATING PERMITS - FINAL AMENDMENT

TODAY'S ACTION

- The U.S. Environmental Protection Agency (EPA) is taking final action to change the definition of "major source" in the existing regulation for state operating permits programs. An industrial facility that emits air pollutants is known as a "source."
- This change deletes the requirement that owners/operators of sources must count certain fugitive emissions of air pollutants (ex: sulfur dioxide, oxides of nitrogen) not listed in the Clean Air Act as a toxic air pollutant when determining whether their facility is a major source subject to the operating permits program. Fugitive emissions are considered to be those that are not emitted from smoke stacks, process vents or storage tanks. They come from pumps, valves, storage piles and other sources of pollution in a facility.
- This final amendment will only apply to industrial facilities or "source categories" covered by federal air pollution regulations promulgated after August 7, 1980. Sources in these categories will no longer be required to count fugitive emissions when determining major source status under the permit program.
- Sources will still be required to count all fugitive emissions of compounds EPA considers to be toxic air pollutants when determining whether they are a major source and thus subject to the operating permits program. Under the Clean Air Act, 188 chemicals are listed as toxic air pollutants because they are known or suspected of causing cancer or other serious health problems.
- This final rule removes a barrier to EPA's granting full approval for several state operating permit programs.

BACKGROUND

- The operating permits program (Title V of the Clean Air Act) requires EPA to promulgate regulations governing the establishment of state operating permit programs. The current regulations were promulgated on July 21, 1992 and require all major industrial sources of air pollution (and some other sources) to obtain operating permits.

- Over half of the state and local agencies still need to get full approval of their operating permit program. Because of separate legal action that ends interim approvals of state permit programs, EPA must either grant full approval for each state operating permit program by December 1, 2001 or operate a federal permit program.
- In the operating permits program, major sources include those that have a potential to emit 100 tons per year of a regulated air pollutant. Major sources also include facilities that have the potential to emit lesser amounts of air pollutants if they are located in areas not meeting the national ambient air quality standards for a particular pollutant.
- EPA's 1992 operating permits rule required sources to count fugitive emissions covered by federal air regulations regardless of when the rules were issued. Previously, fugitive emissions of pollutants covered by EPA air pollution regulations promulgated after August 7, 1980 were not required to be counted when determining major source status.
- EPA was litigated on its 1992 rule. Certain petitioners pointed out that EPA did not follow the procedural steps required by the Clean Air Act when it expanded the scope of sources for which fugitive emissions must be counted in major source determinations.
- EPA has acknowledged the error and proposed in August 1994 to correct the definition. Today's action finalizes the 1994 proposal.

FINAL RULE REQUIREMENTS

- Today's rule allows states to no longer require owners/operators of industrial facilities to count fugitive emissions of air pollutants not considered toxic in major source determinations, if the sources are in source categories subject to federal emission regulations promulgated after August 7, 1980. States that currently have this requirement can either keep it or remove it from the definition of major source in their operating permit program.
- This rule change does not affect how the operating permits rule would treat toxic air pollutants. Fugitive emissions of toxic air pollutants must still be counted in all major source determinations.

- Today's rule also requires owners/operators of sources to consider all pollutants when counting fugitive emissions from industrial facilities subject to standards promulgated as of August 7, 1980. Thus, a source would have to count fugitive emissions of volatile organic compounds, sulfur dioxide, nitrogen dioxides and other regulated pollutants, even though the standard to which the source is subject regulates only particulate matter. This is a change from the 1992 rule, where only the fugitive emissions for pollutants specifically regulated for the source category were required to be counted. This change makes the operating permits rule consistent with other EPA air pollution permitting programs.

FOR FURTHER INFORMATION

- Interested parties can download today's final rule from EPA's web site on the Internet under recent actions at the following address: <https://www.epa.gov/title-v-operating-permits/current-regulations-and-regulatory-actions>.
- Additional information about policy and guidance for the operating permits program is available at <https://www.epa.gov/title-v-operating-permits/title-v-operating-permit-policy-and-guidance-document-index>