

## **40 CFR PART 63, SUBPART A GENERAL PROVISIONS**

Subpart A, General Provisions was promulgated on March 16, 1994. Following are some “highlights” of Subpart A. **This does not contain ALL of the information required by Subpart A.** Please review the general provisions for more detailed information.

### **General Applicability**

- This subpart applies to the national emission standards for hazardous air pollutants (NESHAPS) found in 40 CFR Part 63. This does not apply to the NESHAPS found in 40 CFR Part 61.
- No emission standard or requirement of this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable standard.
- This subpart applies to owners or operators who are subject to the subparts in 40 CFR Part 63, except if otherwise noted in the subpart. The General Provisions do not apply to regulations developed pursuant to 112(r).
  - Provisions apply to stationary sources that emit or have the potential to emit any listed hazardous air pollutant (HAP), and
  - Are subject to any standard in this part.
- The owner or operator subject to this part may be required to obtain an operating permit pursuant to Title V (Part 70).
- An owner or operator that emits or has the potential to emit a HAP and determines that they are not subject to a standard in Part 63, must keep records to verify that they aren't subject.
- The emission standards that apply to area sources will specify whether:
  - States will have the option to exclude area sources from the requirement to obtain a Title V permit;
  - States will have the option to defer permitting of area sources in that category until the EPA makes a ruling on applicability of the permitting requirements; or
  - Area sources are immediately subject to the Title V requirements. If the standard doesn't specify, area sources will be immediately subject to the Title V requirements.
- If an area source becomes a major source that is subject to one of the standards, the source shall be subject to the notification requirements of this subpart.
- An owner or operator of a source may be required by the State to obtain a Title V permit prior to a relevant standard becoming established under this part.

### **Prohibited Activities & Circumvention**

- No owners and operators subject to this subpart shall operate a source in violation of any requirements in this part unless the EPA, the State, or the President grants an extension of compliance.
- Even if a Title V permit has not been issued to a source subject to one of the standards, they must still comply with the standard.
- No owner or operator subject to these provisions shall:
  - Use diluents to achieve compliance based on the concentration of a pollutant in the effluent discharged;
  - Use gaseous diluents to achieve compliance with a visible emission standard; or

- Fragment an operation such that the operation avoids regulation.

### **Construction & Reconstruction**

- Preconstruction review requirements apply to owners and operators who construct a new source or reconstruct a source after proposal of that standard.
- Affected sources must obtain approval (a construction permit) prior to construction.
- This subpart specifies specific information that must be contained in the construction permit application.
- New sources that begin construction after the standard has been proposed must comply with the standard immediately upon startup.
  - If the construction began after proposal and before promulgation of the standard, the source can comply with the proposed standard if the promulgated standard is more stringent.

### **Compliance**

- Compliance dates for existing sources must be set no more than 3 years after promulgation of the standard.
- New sources must comply upon startup.
- If a relevant standard is developed under 112(f) [residual risk], sources must comply within 90 days of the effective date of the standard.
- A startup, shutdown, and malfunction (SSM) plan must be developed and implemented by the compliance date. The SSM plan shall describe, in detail, procedures for operating and maintaining the source during periods of startups, shutdowns, and malfunctions, and a program of corrective action to be taken for malfunctioning process and air pollution control equipment used to comply with the standard. The source shall keep records of any startup, shutdown, or malfunction event that occurred and actions taken during that event. The SSM plan must be submitted to NDEQ or the local air pollution control agency with the notification of compliance status.
- The subpart describes determining compliance with nonopacity, opacity and visible emission standards.

### **Other Requirements**

- Performance Testing
- Monitoring
- Notification
  - Notifications should be sent to EPA if the appropriate State agency has not been delegated enforcement authority of the standard. If the State has been given the authority the state and EPA should receive the notifications unless EPA doesn't want to receive the notifications.
  - Initial notifications are due 120 days after the standard has been promulgated or after initial startup for a new source.
  - Performance test notifications are to be submitted 60 days prior to the test date (Title 129 states 30 days).
  - Compliance Status notifications are to be submitted within 60 days after the effective compliance date.
- Additional recordkeeping and reporting requirements. Aspen Law's "Guide to MACT Recordkeeping and Reporting" includes a listing of the recordkeeping requirements of Subpart A.