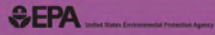


US EPA ARCHIVE DOCUMENT



# MACT EEE Training Workshop


Dallas, Texas

November 3-7, 2008

AECOM

## C.16 Title V Permitting Issues



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# MACT EEE Training Workshop

Title V Permitting Issues

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
## Title V Topics

- Title V Program Review
- MACT EEE implications for Title V Permits
- MACT EEE Delegation



This module will provide a discussion of the Title V (federal operating permit program) permitting issues associated with the MACT rule.

The discussion will cover a review of the Title V program, implications of the MACT EEE for Title V permits, and delegation of MACT EEE to states.

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
### Title V Review

- MACT EEE requires Title V and possibly NSR changes
- Part 70 – State Title V Program
- Part 71 – EPA Title V Program
- Title V created by 1990 Clean Air Act Amendments (18 years ago)
- Major, Non-Major and Area Sources



MACT EEE, as with all MACT rules, must list applicable requirements in an affected site's Title V permit. Implementation of MACT EEE may also trigger a requirement to obtain authorization by a New Source Review (NSR) permit change, such as if a change is required for the process. To review the Federal Operating Permit program, there can be a EPA administered permit that must conform to Part 71, or a state's program that conforms to Part 70. Most states have programs that are crafted for Part 70 conformance. Some areas, such as Indian lands, fall under the federally administered Part 71. The Title V program is quite developed now since its creating by the 1990 Clean Air Act Amendments enacted on November 15, 1990.

A note about Major, Non-Major and Area sources that are discussed in MACT rules. If a site has the potential to emit over 10 tons per year of a single HAP or 25 tons per year of aggregated HAPs, the site is considered Major for HAP. This designation should not be confused with NSR designations such as Prevention of Significant Deterioration (PSD) or Non-Attainment New Source Review (NNSR) in which site's would be major for a criteria pollutant, such as NO<sub>x</sub>, or with a site that is major under the Title V program. Also, an Area Source is one in which the site is not a Major Source of HAP as previously defined. Both Major and Area Sources are subject to MACT EEE requirements.

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**Title V-MACT Requirements**

- Part 70 (71) Source [70.3(a)(3), 71.3(a)(3)]  
– any source, including an area source, subject to a standard or other requirement under §112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under §112(r) (Accidental Release);




Both Part 70 and 71 define that any source that is subject to a MACT rule under 112 of the Clean Air Act is a Part 70 or Part 71 Source. A Part 70 or Part 71 Source is not required to obtain a Title V permit if the MACT is the only applicable requirement that would be required for a Title V permit.

## Non-Major Source Exemption

- Non-major sources subject to a standard under §112, Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a part 70 or part 71 permit at the time that the new standard is promulgated [§70(71).3(b)(2)]




If a site is not a major HAP source, that is it is a Non-Major Source, and is potentially subject to a MACT standard, the US EPA Administrator will determine whether to exempt such a source from the requirement to obtain a Part 70 or Part 71 permit at the time the standard is promulgated.

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
### MACT Applicable Sources

- For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source [70(71).3(c)(1)]
- For any non-major source subject to the part 70(71) program, the permitting authority shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the part 70(71) program [70(71).3(c)(2)]



If a site is major for HAP, then the permitting authority is required to include in the site's Title V permit all applicable requirements for all relevant emissions units.

If the site is not a major HAP source, that is a non-major source, the Title V permit must include the applicable requirements that caused the source to be subject to the Title V permitting program.

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
### Title V Permit Content

- Title V permit must contain [70(71).6(a)]
  - Emission limitations and standards
  - Monitoring and related record keeping and reporting



A site's Title V permit must contain the emission limitations and standards (such as MACT standards and limitations) and required monitoring and related record keeping and reporting requirements of the standards.




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
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**Title V Permit Operation [70(71).6(b)]**

- No part 70(71) source may operate after it is required to submit a timely and complete application under this part, except in compliance with a permit issued under this part
- If part 70(71) source submits a timely and complete application for permit issuance (including renewal), the source's failure to have a permit is not a violation until permitting authority takes final action on the permit application



A site that is major under the Title V permit program may not operate after the time they are required to submit a complete application unless they are in compliance with a permit issued under the Title V permit program. However, after the required time to submit an application is passed, failure to have a permit is not a violation until the permitting authority takes final action on the application. So if the Title V site files a complete and timely application, there is no violation unless the permit is not issued.

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
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**Title V Modification**

- Significant modification 70(71).7(e)(4)
  - permit modifications that do not qualify as minor permit modifications or as administrative amendments
  - significant change in existing monitoring permit terms or conditions
  - relaxation of reporting or recordkeeping permit terms or conditions



For a continuing review of the Title V Permitting program, the types of modifications to a Title V permit are Administrative Amendments, Minor Modifications and Significant Modifications. A significant modification is a permit modification that does not meet the definition of a Minor Modification of Administrative Amendment. The types of changes that fall under the Significant Modification are a significant change in existing monitoring terms or conditions or a relaxation of reporting or recordkeeping terms or conditions of the permit.

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
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**Title V Reopening for Cause 70(71).7(f)**

- Permit provisions must require permit to be reopened and revised when additional applicable requirements become applicable to a major part 70(71) source with a remaining permit term of 3 or more years
- Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement
- No such reopening is required if the effective date of the requirement is later than the date permit is due to expire



The Title V Permit program requires that Title V permit must be opened and revised when additional applicable requirements become applicable to a Major Part 70 or Part 71 Source, if the permit has a remaining term of 3 or more years. Applicability of MACT EEE certainly would be subject to this provision. Also, a reopening of a permit must be completed no later than 18 months after promulgation of the new applicable requirement. Additionally, the permit does not need reopening if the effective date of the new requirement is later than the date the permit is due to expire, that is the end of the existing permit's term.


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
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### Title V Application

- Sources subject to Title V permitting requirements for the first time as a result of the HWC NESHAP were required to submit an application for a permit within 12 months of promulgation [70(71).5(a)(1)]



If a source because subject to the MACT EEE requirements and, therefore, the Title V permitting requirements for the time, the source was required to submit an application for a permit within 12 months of promulgation under the Part 70 or Part 71 program. A state can make their state's rule more stringent, so this requirement should be reviewed based on the source's state Title V rule.

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
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**Title V Revision for MACT EEE**

- Since Title V permits must be renewed every five years, sources that had an existing Title V permit at the time of promulgation should have revised their permit to include HWC NESHAP terms and conditions if they had three or more years remaining until renewal



Title V permits have a term of no more than 5 years. When the MACT EEE rule was promulgated on September 30, 1999, a source with a Title V permit at the time of promulgation should have revised their permit to include the terms and conditions of the MACT EEE rule if the term of the permit had 3 or more years remaining.

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
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**Title V Permit Modification for MACT EEE**

- To modify the permit, sources should have submitted a significant Title V permit modification to their permitting authorities within 18 months of promulgation of MACT EEE
- If there were less than 3 years remaining until renewal, the HWC source should have submitted a significant permit modification upon renewal



Stated again, sources that were subject to MACT EEE at the time of promulgation of MACT EEE, should have submitted a significant modification to their Title V permit within 18 months of September 30, 1999. If they had less than 3 years remaining until renewal of their Title V permit, the source should have included the significant modification with renewal of the permit.

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
**Title V Permit Modification for MACT EEE**

- The time frames are also applicable for inclusion of the February 13, 2002 negotiated interim standards, since some of the 1999-promulgated HWC NESHAP standards have been revised
- However, in cases where a source's Title V permit only references "subpart EEE", there would be no need to modify the permit



On February 13, 2002, US EPA promulgated negotiated interim standards to MACT EEE. The time frames identified for Title V compliance are also applicable to the negotiated interim standards. This is because some of the standards were changed in the 2002 changes to the rule, which could require a Title V modification.


If the source's Title V permit only references Subpart EEE as a requirement and does not identify the specific applicable requirements of the rule, there would be no need to modify the permit.

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
**Title V Permit Modification for MACT EEE**

- Sources should contact their permitting authority regarding whether a minor, a significant, or no permit modification is needed



Because states can employ different requirements on subject sources, a source should contact their permitting authority to determine the correct course of action for changing MACT EEE requirements in their Title V permit.




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
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## MACT EEE Delegation

- On November 26, 1993, EPA published guidance in a final rule (40 CFR Part 63, Subpart E) addressing approval of S/L/T programs and delegation of Federal authorities, and subsequently amended these provisions on September 14, 2000 at 65 *FR* 55810



Delegation of MACT implementation authority to State, Local and Territorial agencies is accomplished through Subpart E of Part 63. Guidance for approval of the agencies programs was published on November 26, 1993, and then amended on September 14, 2000. Subpart E will list which states or other authorities have been delegated MACT EEE. As of December 2008, not many states were delegated full authority of the MACT.

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### MACT EEE Delegation

- Rulemaking established guidance for EPA approval and delegation of §112 requirements as they are (1) promulgated (straight delegation), and (2) by rule adjustment, (3) substitution of requirements, (4) state program approval process, (5) equivalency by permit process, and (6) partial approval
- (2) – (6) are considered alternative approval options and are for S/L/Ts that have, or want to develop, applicable rules or requirements pursuant to 112 authority



Subpart E provide for 6 options of approval: (1) promulgated (straight delegation), (2) by rule adjustment, (3) substitution of requirements, (4) state program approval process, (5) equivalency by permit process, and (6) partial approval. Of these categories, only (1) is not considered an alternative approval options, the remainder are alternative options. The alternative approval options are for the State, Local and Territorial authorities that have or want to develop applicable rules or requirements allowed by Section 112 authority.