



EPA MAJOR SOURCE RECLASSIFICATION UNDER CLEAN AIR ACT SECTION 112: “ONCE IN ALWAYS IN” POLICY

This document* summarizes the U.S. Environmental Protection Agency’s (EPA’s) new memorandum allowing major sources under Section 112 of the Clean Air Act amendments of 1990 (CAA) to be reclassified as minor sources. The Iowa Department of Natural Resources (DNR) is available to assist facilities in implementing the new guidance, and encourages facilities to consider several factors before deciding to apply for permit and classification changes.

Guidance Change

On Jan. 25, 2018, the U.S. Environmental Protection Agency (EPA) issued a guidance memorandum withdrawing the “once in always in” policy for the classification of major sources of hazardous air pollutants (HAPs) under CAA §112. With the new guidance, sources of HAPs previously classified as “major sources” may be reclassified as “area sources” when the facility limits its potential to emit below major source thresholds.

In a 1995 guidance memorandum, EPA established the “once in always in” policy that determined any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced a facility’s HAP emissions below major source thresholds.

In the new guidance memorandum, EPA states that it had no statutory authority under the CAA §112 to place a time limit on when a facility may be determined to be an area source. The memorandum goes on to say that a plain language reading of the Act allows facilities to be reclassified as area sources once the facility takes enforceable limits on its potential to emit.

CLEAN AIR ACT SECTION 112

CAA §112 addresses emissions of hazardous air pollutants and requires issuance of technology-based standards for major sources and certain area sources. "Major sources" are defined as a stationary source or group of stationary sources that emit or have the potential to emit 10 tons or more per year of a hazardous air pollutant or 25 tons or more per year of a combination of hazardous air pollutants. An "area source" is any stationary source that is not a major source.

For major sources, CAA §112 requires that EPA establish emission standards that require the maximum degree of reduction in emissions of hazardous air pollutants. These emission standards are commonly referred to as "maximum achievable control technology" or "MACT" standards. In general, area sources are subject to less stringent control standards. These sources are regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) rules.

** This document is intended to serve as guidance and does not take the place of any rule or law. This document may not reflect changes in rule or law that occur after the release of the guidance memorandum on Jan. 25, 2018. Please contact Iowa DNR for the most recent applicable rules.*

Implementation

The DNR is implementing the guidance in the new memorandum and processing permit applications to be reclassified as an area source. Facilities that have actual HAP emissions below the major source levels may request new permit limits and removal of major source National Emission Standards for Hazardous Air Pollutant (NESHAP) requirements from their construction permits.

Before having any NESHAP requirements removed from a permit, the facility and the DNR will work together to determine how to establish federally enforceable limitations and associated requirements to keep emissions below major source levels. The Iowa DNR will revise the permits if the facility can successfully demonstrate continuous compliance with the new limitations, and that the permit modifications will not cause or contribute to violations of other air quality requirements.

Facility Considerations

The new guidance can impact facilities differently depending on their circumstances. Companies will need to weigh many different factors before making a decision including the following:

- EPA's new guidance memorandum describes a change in policy, which may be modified or reversed in the future.
- The facility may become subject to area source NESHAP requirements upon reclassification.
- The memorandum does not provide details on implementation. For example, the guidance does not include information on compliance dates when switching between major and area sources status. EPA has stated that it will provide additional information in the future, but at the current time, the facility and the DNR will work together on a case-by-case basis on any implementation issues that may arise.
- The facility may need to revise both their construction and Title V permits to be reclassified as an area source and remove major source NESHAP obligations. This includes, establishing enforceable limits and associated requirements in the permits. In addition, all NESHAP references must be removed from the permits.

Additional Information

DNR can assist facilities with any questions related to this guidance. For additional information on the guidance memorandum, or questions on how to apply for classification changes, please contact Michael Hermsen (515-725-9577) or the Air Construction Permit Help Line (1-877-AIR-IOWA).

Additional information concerning the "once in always in" policy is also available on [EPA's website](#).