

Halogenated Solvent NESHAP (Subpart T) Q&A's

Note: While these questions and answers constitute the best available information at this time based on the information provided, the EPA recommends that you consult your State or local air pollution control agency for any final determinations. State and local agencies may implement provisions that are more stringent than those contained in the NESHAP or you may need to discuss situations that are different from those presented here.

(3/23/00)

Question:

A facility operating an existing halogenated solvent cleaning machine was a major source of HAP and subject to 40 CFR part 63, subpart T, as of the "first compliance date" for that standard, but subsequently took facility-wide PTE limits to become a non-major (i.e., area) source. Pursuant to 40 CFR 63.468(j), permitting authorities have the option of deferring affected non-major halogenated solvent sources from title V permitting requirements. Does the title V permitting authority have the option of deferring title V permitting for this affected subpart T source?

Answer:

An existing major source subject to subpart T that takes limitations on its PTE after the first compliance date cannot be deferred from title V permitting. In that the facility's change in PTE did not occur until after the "first compliance date" of subpart T, the halogenated solvent cleaning machine continues to be considered a major source for the purposes of subpart T and must obtain a title V permit.

Timing for obtaining potential to emit restrictions and title V applicability:

The EPA's May 16, 1995 memorandum, "Potential to Emit for MACT Standards -- Guidance on Timing Issues," states that an existing facility may switch to area source status at any time until the "first compliance date" of that standard. In order to be considered an area source under a section 112 standard, a major source must take limitations on its PTE by this date, otherwise, the source is required to comply permanently with that standard to ensure that maximum achievable reductions in toxic emissions are achieved and maintained.

By this we mean that major sources subject to a MACT standard must change to area source status prior to the "first compliance date" of that standard in order to avoid the requirements for major sources under that standard, including the necessity for a title V permit. If a facility does not take appropriate emission limits by this deadline, then the facility is classified as a major source for the purposes of that standard since section 501(2) provides that any source that is major under section 112 will also be major under title V. Had the facility taken appropriate action to limit its PTE prior to the "first compliance date" of subpart T, it may have been able to classify¹ its subpart T affected source as an area source and defer title V permitting.¹

Applicability of multiple standards to a single facility:

As a point of clarification, for facilities subject to multiple MACT standards, the May 16, 1995 memorandum also explains that a facility that is subject to the major source requirements of one

section 112 standard is not necessarily subject as a major source for all future section 112 standards - a facility may take potential to emit limits to become an area source before the “first compliance date” of a future standard.

For example, if the facility you described above wanted to ensure that it would not be subject to the major source requirements of the Miscellaneous Metal Parts standard (a future MACT standard), the facility could take PTE limits to become an area source before the “first compliance date” of the Miscellaneous Metal Parts standard. In this case, the facility would continue to be classified as a major source for the purposes of subpart T and title V, but would not be subject to the major source requirements under the Miscellaneous Metal Parts MACT standard. Rather, area source requirements, if any, under this standard would apply to the facility.²

¹ Some facilities may be eligible to limit PTE based on EPA’s Transition Policy. For further information, see EPA’s December 20, 1999 memo titled “Third Extension of January 25, 1995 Potential to Emit Transition Policy.”

² Under 40 CFR §§ 70.3(c) and 71.3(c), permits for major sources must include all applicable requirements for all relevant emission units at a facility and area sources must include all applicable requirements for emission units that cause the facility to be subject to part 70 or part 71.