



How U.S. EPA's Withdrawal of the "Once In, Always In" MACT Policy May Affect Your Title V Air Permit

On January 25, 2018, U.S. EPA issued a guidance memo¹ regarding the applicability of U.S. EPA's maximum achievable control technology (MACT) standards. This guidance supersedes the May 1995 Seitz Memorandum, and pursuant to the Federal Register notice, became effective on February 8, 2018.

Under the new guidance, if you historically reduced your emissions to below the major source MACT standard's applicability thresholds, you are no longer required to comply with the major source MACT standard. Depending on your reduced emission levels, this means you can now comply with the less stringent area source MACT standard; or, in other cases, no MACT standard would apply.

The new guidance also means that facilities/sources that accepted operational restrictions to avoid being subject to a major source MACT standard may no longer be subject to Title V permitting, or may be able to discontinue using MACT-required HAP controls.

This fact sheet explains the new guidance and will help you determine if it applies to your operations. It also outlines the next steps and other considerations for you to determine if your Title V permit requirements can be reduced under the new guidance.

Background on the MACT "Once in Always In" (OIAI) Policy

The MACT standards, established under Section 112 of the 1990 Clean Air Act Amendments, are designed to control hazardous air pollutants (HAPs) from industrial sources. MACT standards are classified as major source or area source standards.

Major source MACT standards are for sources that have a potential to emit (PTE) of:

- equal to or more than 10 tons per year (tpy) of any single HAP; or
- equal to or more than 25 tpy of any combination of HAPs.

Area source MACT standards apply to sources where the PTE is less than both of the above thresholds. Major source MACT standards generally have more stringent requirements than the area source MACT standards because of their larger emissions.

In May 1995, U.S. EPA issued a guidance memorandum² that set forth the "once in, always in" policy (OIAI policy). Under the OIAI policy, once the major source MACT standard became applicable to you and once you passed the first compliance date, the major source MACT standard would continue to apply to you, even if you reduced your emissions to below the major source MACT standard's applicability threshold.

Who is affected by the new 2018 guidance memorandum?

The 2018 guidance impacts any source or facility that had to comply with the major source MACT standard even though they are able to restrict their emissions below the major source MACT standard thresholds. It will not affect any major MACT source if the source cannot restrict the emissions below the thresholds. To determine if your facility might be affected by this policy:

(1) Review your permit to determine if any of the major source MACT standards apply. This is usually identified in either the facility-wide section of the permit or in each emissions unit sections of the permit. The regulatory reference for the MACT standards is 40 CFR Part 63 rule or MACT Subpart ~~~~~.

¹ "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act," issued January 25, 2018.

² "Potential to Emit for MACT Standards--Guidance on Timing Issues" (the "May 1995 Seitz Memorandum").

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It is sometimes hard to tell if the listed MACT standard is a major source MACT standard or an area source MACT standard. If you need help figuring this out, contact your consultant, attorney or your Ohio EPA District Office or Local Air Agency permit writer.

Ohio EPA's Division of Air Pollution Control has also created an Excel spreadsheet called the "MACT Tracker," which outlines all the promulgated MACT standards to date. Due to the frequent changes in the standards, the MACT Tracker should be used as a guide only to identify all the applicable MACT standards. Ohio EPA will be updating the Tracker periodically. The MACT Tracker includes the following information:

- Subpart name;
- Subpart letter;
- If the Subpart is major or area source;
- Promulgation date;
- Amendments;
- Code of Federal Regulations (CFR) reference; and
- Current action of the standard and date of the current action.

The MACT Tracker is available at epa.ohio.gov/dapc/mact/mactmain.aspx#164229495-permitting-and-compliance-assessment-of-major-and-area-source-mactgact-standards

(2) Determine the Potential to Emit (PTE) for the emission units subject to the MACT standards. If the PTEs are less than the thresholds, then you may want to take advantage of the new guidance.

If you need assistance determining how the 2018 guidance impacts the affected sources at your facility, please contact the appropriate District Office or Local Air Agency (see map in this factsheet for contacts). Or, you can contact Ohio EPA's Office of Compliance Assistance and Pollution Prevention for assistance at epa.ohio.gov/ocapp/ComplianceAssistanceandPollutionPrevention.aspx.

(3) Some facilities may have already asked U.S. EPA for an applicability determination concerning the OIAI policy. It's not a requirement that you get a determination from U.S. EPA. But, if you've already received confirmation from U.S. EPA that the new guidance applies to you, contact Ohio EPA, Division of Air Pollution Control to discuss your options.

The new guidance applies to my facility. What should I do next?

Ohio EPA, Division of Air Pollution Control (DAPC) strongly encourages any facility and/or source affected by the 2018 guidance memorandum to discuss the implications of the guidance with their permitting, technical and legal staff. It is important that you have a clear understanding of the guidance, its applicability to you and how it relates to the conditions of your current air permit. Ensure you understand:

- The options available for affected operations at the facility based upon the 2018 guidance.
- The advantages/disadvantages resulting from remaining subject to the applicable major source MACT standard.
- The application and permit processes needed to address revisions to the affected facility operations resulting from the 2018 guidance.
- The possibility that discontinuing the use of HAP controls could increase emissions such that additional modeling data may be necessary.
- The timing of any necessary permit revisions relative to the still effective MACT standard compliance requirements.

As the delegated authority for the major source MACT standards, Ohio EPA, DAPC can work with any affected facility/source to address any questions and discuss next steps in taking advantage of the new policy.

If you want to take advantage of the new guidance, you will need to submit an application to modify your current permit. It is important to discuss what you want to do with your District Office or Local Air Agency permit writer before you apply.

For your air permitting contact, contact the Ohio EPA District Office or Local Air Agency covering the area where your facility is located (see map in this factsheet). Ask to speak to your permit writer for your facility.

If you have any questions regarding the 2018 guidance memorandum, please contact Briana Mastriana, DAPC MACT Coordinator, at briana.mastriana@epa.ohio.gov or (614) 644-3698.

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Resources

- January 25, 2018 guidance memorandum, "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act"
 - epa.ohio.gov/dapc/mact/mactmain.aspx
 - epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean
- Federal Register notice — gpo.gov/fdsys/pkg/FR-2018-02-08/pdf/2018-02331.pdf
- May 1995 Seitz Memorandum — epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean

Division of Air Pollution Control District Office and Local Air Agency Jurisdiction





Ohio Environmental Protection Agency

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The Division of Air Pollution Control's jurisdictional boundaries for district offices and local air agencies are not the same as Ohio EPA's standard district boundaries. Standard district boundaries, indicated by the dark lines, are for reference only.

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