

Which Facilities are Covered by the Title V Program? **[From the preamble to 40 CFR Part 70, 57 FR 32252]**

III. Summary of Final Rules

A. Applicability

The title V operating permits program requires all part 70 sources to submit permit applications to the appropriate permitting authority within 1 year of the effective date (i.e., date of EPA approval) of the State program. The operating permit program applies to the following sources:

1. Major sources, defined as follows:

- (a) Air toxics sources, as defined in section 112 of the Act, with the potential to emit 10 tons per year (tpy), or more, of any hazardous air pollutant listed pursuant to 112(b); 25 tpy, or more, of any combination of hazardous air pollutants listed pursuant to 112(b); or a lesser quantity of a given pollutant, if the Administrator so specifies [501(2)(A)].
- (b) Sources of air pollutants, as defined in section 302, with the potential to emit 100 tpy, or more, of any pollutant [501(2)(B)].
- (c) Sources subject to the nonattainment area provisions of title I, part D, with the potential to emit pollutants in the following, or greater, amounts [501(2)(B)]:

	<u>TPY</u>
(i) Ozone (VOC and NO _x) ¹	
Serious	50
Transport regions not severe or extreme	50 (VOC only)
Severe	25
Extreme	10
(ii) Carbon monoxide	
Serious (where stationary sources contribute significantly)	50
(iii) Particulate Matter	
(PM-10) Serious	70

2. Any other source, including an area source, subject to a hazardous air pollutant standard under section 112.

¹For this purpose, title I treats volatile organic compounds (VOC) and oxides of nitrogen (NO_x) sources somewhat differently. In areas qualifying for an exemption under section 182(f), NO_x sources with the potential to emit less than 100 tpy would not be considered major sources under part D of title I. In areas not qualifying for this exemption, NO_x sources are subject to the lower thresholds created by section 182(f). In ozone transport regions, a lower threshold of 50 tpy for VOC sources is created by section 184(b). Because section 182(f) does not refer to section 184(b), the lower threshold in ozone transport regions applies to VOC sources, but not to NO_x sources. Whatever its location, any 100 tpy source would be considered a major source under section 302.

3. Any source subject to NSPS under section 111.
4. Affected sources under the acid rain provisions of title IV [501(1)].
5. Any source required to have a pre-construction review permit pursuant to the requirements of the prevention of significant deterioration (PSD) program under title I, part C or the nonattainment area, new source review (NSR) program under title I, part D.
6. Any other stationary source in a category EPA designates, in whole or in part, by regulation, after notice and comment.

A major source is defined in terms of all emissions units under common control at the same plant site (i.e., within a contiguous area in the same major group, two-digit, industrial classification). Once subject to the part 70 operating permit program for one pollutant, a major source must submit a permit application including all emissions of all regulated air pollutants from all emissions units located at the plant, except that only a generalized list needs to be included for insignificant events or emissions levels. The program (including combinations of partial programs) applies to all geographic areas within each State, regardless of their attainment status. The acid rain permit program requirements, however, apply only within the contiguous 48 States and the District of Columbia.

The EPA is authorized, consistent with the applicable provisions of the Act, to exempt one or more source categories (in whole or in part) from the requirement to have a permit if the Agency determines that compliance with the part 70 regulations would be "impracticable, infeasible, or unnecessarily burdensome" [section 502(a)]. The EPA may not, however, exempt any major source or affected (i.e., acid rain) source. The EPA believes that compliance by non-major sources with the permitting requirements during the early stages of the program would prove to be unnecessarily burdensome for non-major sources and impracticable and infeasible for permitting authorities as well. Therefore, to promote an orderly phase-in of the program, States can defer coverage temporarily for all sources which are not major. The EPA will complete a rulemaking to consider further deferral or permanent exemption for non-major sources within 5 years of the date EPA first approves a State program that defers such sources.

Any source whose obligation to obtain a permit is deferred may request a permit prior to the end of the 5-year deferral period. All deferred sources will be required to submit permit applications within 12 months after the completion of the future rulemaking, unless they are sources or source categories that receive a continued exemption (i.e., EPA determines that compliance with the permitting requirements for such categories would be impracticable, infeasible, or unnecessarily burdensome on the source categories) in the future rulemaking.

In addition, States may permanently exempt from review those non-major sources and source categories subject to title V solely because they are subject to the NSPS for new residential wood heaters or the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos from demolition and renovation activities. The Administrator reserves the right to grant deferral or exemption to additional non-major source categories when they become subject to section 112, and thereby subject to title V.