

contiguous area and under common control)" that would be a major source under section 112 or a major stationary source under section 302 or part D of title I of the Act. Other conditions and requirements relevant to the major source definition are:

a. *Section 302 and Part D Sources.* Except for sources qualifying as support facilities (see paragraph (c) of this section), stationary sources can only be aggregated to determine whether they constitute a major stationary source subject to section 302 or part D of the Act if they are in the same industrial grouping, as determined by their 2-digit code. These codes can be found in the Standard Industrial Classification Manual, 1987.

b. *Section 112 Sources.* Stationary sources of HAP must be aggregated for the purpose of determining whether they are major sources subject to section 112 without regard to their industrial grouping.

c. *Support Facilities.* The EPA proposes to include in the definition of a major source pursuant to section 302 or part D of title I of the Act, any facility or emission unit used to support the main activity of the source, regardless of its 2-digit code. A support facility must be located on the same property as the source it supports, or on adjacent property, and be under the control of the same entity. Also, at least 50 percent of the support facility's output must be dedicated to the source.

d. *Emission Requirements.* To be major, a stationary source must have the potential to emit pollutants in amounts at or above the major source threshold, which is determined by the type of pollutant emitted and by the attainment status of the area in which the source is located. Thus, the term "major source" encompasses the following:

(1) Air toxics sources with the potential to emit 10 tons per year (tpy) or more of any HAP listed pursuant to section 112(b); 25 tpy or more of any combination of HAP listed pursuant to section 112(b); or a lesser quantity of a given pollutant, if the Administrator so specifies. And, once the Administrator promulgates a definition of major source for radionuclides, a source would be major if it emits, or has the potential to emit, major amounts of radionuclides.

(2) Sources of air pollutants, as defined in section 302 of the Act with the potential to emit 100 tpy or more of any pollutant.

(3) Except as noted in paragraph (d)(4) of this section, sources subject to the nonattainment area provisions of title I, part D, with the potential to emit pollutants in the following, or greater, amounts:

(a) 50 tpy VOC or NO<sub>x</sub> in serious ozone nonattainment areas;

(b) 25 tpy VOC or NO<sub>x</sub> in severe ozone nonattainment areas;

(c) 10 tpy VOC or NO<sub>x</sub> in extreme ozone nonattainment areas;

(d) 50 tpy VOC in ozone transport regions established pursuant to section 189 of the Act;

(e) 50 tpy carbon monoxide (CO) in serious CO nonattainment areas; and

(f) 70 tpy particulate matter (PM-10) in serious particulate matter nonattainment areas.

(4) The NO<sub>x</sub> thresholds in paragraph (d)(3) of this section do not apply in nonattainment areas qualifying for an exemption under section 182(f) of the Act. This exemption applies in the case where reducing NO<sub>x</sub> emissions would not reduce ozone formation. In those areas, a stationary source of NO<sub>x</sub> is not considered a major source under part D of title I of the Act unless its potential to emit is 100 tpy or more. In areas not qualifying for this exemption, NO<sub>x</sub> sources are subject to the lower thresholds defined in part D and listed in paragraph (d)(3) of this section. Whatever its location, any 100 tpy source would be considered a major source under section 302 of the Act. Also, the major source threshold for VOC in ozone transport regions in paragraph (d)(3) of this section does not apply for NO<sub>x</sub>. This threshold was created by section 184(b) of the Act. Because section 182(f) of the Act (which requires NO<sub>x</sub> sources to meet the same thresholds as VOC sources) does not refer to section 184(b) of the Act, the lower threshold for VOC sources in ozone transport regions does not apply to NO<sub>x</sub> sources.

e. *Fugitive Emissions.* The fugitive emissions from a stationary source shall be considered in making the determination as to whether it is a major source when:

(1) The source belongs to one of the source categories listed in the definition of "major stationary source" at 40 CFR parts 51 and 52 which includes source categories regulated by a section 111 or section 112 standard as of August 7, 1980. Thus, proposed part 71 would follow the proposed revisions to part 70 in that sources in categories subject to standards set after August 7, 1980, if not otherwise listed, would be exempted from the requirement to include fugitive emissions when making their major source determination until such time as EPA conducts section 302(j) rulemaking to require that fugitive emissions from those sources be included.

(2) The air pollutants emitted are HAP or radionuclides. The EPA believes the Act requires that fugitive emissions of

HAP or radionuclides, to the extent quantifiable, be counted. Section 112(a)(1) of the Act uses the term "major source," rather than "major stationary source," and legislative history indicates an intent by Congress to treat this definition differently than the section 302(j) "major stationary source" definition. Moreover, section 112 of the Act establishes a new program with a relatively narrow focus; it applies only for specific HAP at source categories to be determined by EPA. All this suggests that the section 302(j) rulemaking requirement does not apply in the context of section 112, and that fugitive emissions must therefore be included for the purpose of determining whether a source is major under section 112(a)(1).

#### 4. New Source Review

The definitions for major and minor NSR have been included so they can be used to describe the proposed permit revision procedures. In some cases, the action to revise a permit will depend on whether the change was subjected to major or minor NSR before being processed as a part 71 revision.

#### 5. Potential To Emit

In the proposed definition of "potential to emit," limitations on a source's potential to emit would be federally enforceable only if they are enforceable by the Administrator and citizens under the Act. This differs from the definition currently in part 70 of this chapter, in that the part 70 definition only requires that the limitations be enforceable by the Administrator. This proposal would follow the definition in the proposed revisions to part 70. See 59 FR 44460 (Aug. 29, 1994).

#### 6. Responsible Official

The proposed definition of "responsible official" would follow the definition in the recently proposed revisions to part 70.

#### 7. Title I Modification

The proposed rule would adopt the definition of "title I modification" or "modification under any provision of title I of the Act" that is used in part 70. The proposed definition parallels a proposed revision to the regulations at part 70 of this chapter, on which EPA solicited comment, and the rationale for the definition in the preamble to the proposed revision to part 70 is incorporated herein by reference. See 59 CFR 44460 (Aug. 29, 1994).