

Section 112J: The "HAMMER" Clause

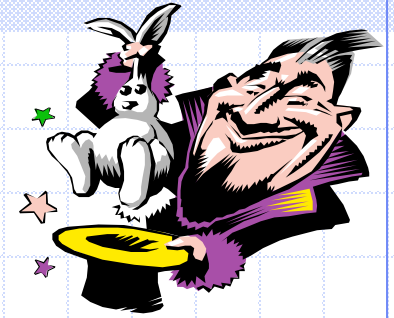
*What is Illinois Doing
about the PART 2; May 15,
2003 Deadline????*

& How can P2 Play a Role?

**Hank Naour
ILLINOIS EPA**



WHAT IS THE ILLINOIS STRATEGY?



- ◆ **ILLINOIS EPA BUREAU OF AIR (BOA) Strategy for Addressing the Requirements of Section 112(j) Hammer Clause for NESHAPs *Part 2:***
- ◆ **The Clean Air Act (CAA) Section 112(d) required USEPA to promulgate all National Emission Standards for Hazardous Air Pollutants (NESHAPs) by November 15, 2000. In the event that USEPA failed to promulgate the scheduled standards by November 15, 2000, and beginning 18-months after the November 15, 2000 date, Section 112(j) of the CAA requires that the major sources of Hazardous Air Pollutants (HAPS) (i.e., those that emit greater than 10 tons of a single HAP or a total of 25 tons of combined HAPs) that are subject to any of the remaining, un-promulgated categories of NESHAPs, to notify the State agency that they are impacted and must submit their TITLE V, Part 1 notification to the State by May 15, 2002.**
- ◆ **There are (31) NESHAP (Illinois effected sources) yet to be promulgated by USEPA. These (31) have been proposed in the Federal Register by USEPA. (See the ATW Website)**

STRATEGY (cont)

- ◆ **Any of the NESHAPs that became final by May 15th, 2002 did not fall under this strategy and sources impacted by these NESHAPS fell under the standard procedures for the BOA including the Permit Section requirement for updating the TITLE V application to include the new regulations.**
- ◆ **The sources that are subject to any of the proposed NESHAPs may decide not to comply with the proposal and will have to inform the BOA how they will comply. The sources that are subject to any of the non-promulgated NESHAPs will also have to inform the BOA how they will comply. The Permit Section would then have review a case-by-case MACT determination for these cases.**

Strategy (cont)

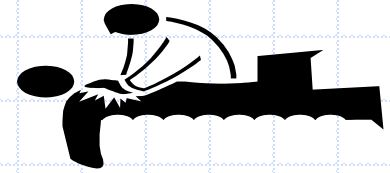
- ◆ USEPA promulgated a revision on March 05, 2002 to the Part 63 General Provisions and Section 112(j) Control Technology Determination for Major Sources to address the TITLE V requirement for the non-final NESHAPs in two parts. Part 1 is a submittal that notifies the State that the source is impacted by that particular NESHAP, and Part 2 provides the submittal of a complete application to the State. The Federal final Section 112j Rule requires that the Part 1 notification would be due no later than May 15, 2002, **and, as a result of a Settlement Agreement between USEPA and the Sierra Club (Sierra Club/Petitioner v. U.S. Environmental Agency, and Christine T. Whitman/Respondents; No. 02-1135 and consolidated cases), the Part 2 application will be submitted no later than July 15, 2003 if an applicability determination is desired. If a source's CAAPP has not been issued by May 15, 2003, the CAAPP must contain the appropriate NESHAP conditions before going to public notice.**

STRATEGY (cont)

- ◆ **The following is an outlined strategy for the Bureau of Air to meet the requirements relating to Section 112(j) "hammer clause" Part 2:**

- ◆ **I. TITLE V sources**
 - ◆ **A.** TITLE V sources were notified by the Permit Section in February 2002, that Agency records indicate that they have units that we believe would be subject to one of the NESHAPs that have not yet been finalized.
 - ◆ **B.** These TITLE V sources were told they must revise their Title V applications or notify the Bureau of their intent to revise their application by May 15, 2002.
 - ◆ **C.** Copies of the notifications from the sources are being sent to Compliance/Enforcement with a copy to FOS and Central File.
 - ◆ **D.** When the Part 2 submittals are made, the Permit Section will then review the TITLE V application revisions.

STRATEGY (cont)



- ◆ **II.** Sources that have non-TITLE V permits have been reviewed by Air Toxics Protection Unit (ATPU) and will not be an issue under Section 112(j).

- ◆ **III.** Sources that are currently un-permitted
 - A. Non-permitted sources to which the nine coating NESHAPs may impact and which are small businesses will be notified of their potential need to consider these NESHAPs through a mailing by Department of Commerce and Community Affairs (DCCA) SBAP program.

- ◆ *The proposed Surface Coating NESHAPs are the following:*
 - *Wood Building Products*
 - *Fabric, Printing, Coating and Dyeing*

STRATEGY (cont)

- *Metal Furniture,*
- *Miscellaneous Metal Parts and Products; includes asphalt/coal tar application to metal pipes,*
- *Miscellaneous Plastic Parts and Products,*
- *Wood Building Products*

The promulgated surface coating MACTs are:

- *Paper & Other Web,*
- *Auto and Light Duty Truck,*
- *Large Appliances,*
- *Metal Can ,*
- *Metal Coil,*

The administrative process for determining any un-permitted , potentially effected sources in the surface-coating categories is as follows:

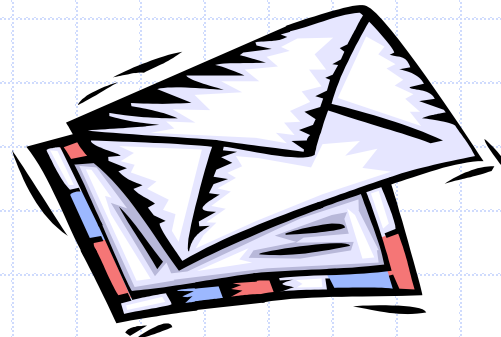
1. Postcards with screening questions to assist whether a company in determining whether the NESHAP will apply to them were sent to all Dunn & Bradstreet listings under the SIC codes identified in

STRATEGY (cont)

- i. Companies using less than 2000 gallons were assumed to be de minimus and will be disregarded.*
 - ii. Companies using over 2000 gallons of coating were notified of the May 15, 2002, deadline through a second DCCA SBAP mailing which included:
 - a. A letter explaining the requirement,*
 - b. The surface coating initial notification form (attached), and*
 - c. Other assistance & materials as needed.**
 - iii. Companies using over 5000 gallons of coating were notified of the May 15, 2002, deadline and the need for a state permit through a second DCCA SBAP mailing which included:
 - a. A letter explaining the requirements for both state permits and possible TITLE V permit,*
 - b. The surface coating initial notification form, and*
 - c. Other assistance & materials as needed, including application forms.**
3. The BOA Compliance/Enforcement Section will receive the initial notification form with a copy sent to FOS and Central Files.
4. The BOA Permit section will get copies of the notifications that are provided by the sources and will process the appropriate TITLE V and State applications.

GENERIC LETTER TO ALL TITLE V SOURCES

- ◆ After the April, 2003 Final Settlement Agreement, Illinois EPA will send a generic letter to over 260 Title V sources that may be subject to the remaining 10-Year MACT Standards
- ◆ Illinois has provided applicability determinations requested by a small number of contacted sources.



LETTER TO TITLE V SOURCES

- ◆ **Section 112J Part 2 MAILING**

- ◆ **Dear Environmental Coordinator:**

- ◆ The purpose of this letter is to inform you that if you desire an applicability determination, you are required to submit to the Illinois EPA a Part 2 Application in accordance with section 112(j) of the Clean Air Act (CAA) **no later than the dates indicated in the Section 112(j) Settlement Agreement (copy enclosed) and General Provision Amendments (USEPA website:**

<http://www.epa.gov/ttn/atw/gp/gppg.html>).

- ◆ In February, 2002, the Illinois EPA mailed to you a Part 1 filing package consistent with the federal reporting requirements for those facilities that may be subject to any National Emission Standards for Hazardous Air Pollutants (NESHAP) that were not promulgated by May 15, 2002.
- ◆ The CAA requires USEPA to develop Maximum Achievable Control Technology (MACT) standards for designated source categories by specific deadlines. Due to delays in the development of the MACT standards, USEPA did not meet the prescribed November 2000 deadline for NESHAP promulgation.

LETTER (cont)

- ◆ *Section 112(j)* of the CAA requires facilities that are potentially subject to a NESHAP that is not yet promulgated to notify the Illinois EPA by filing a Part 1 and Part 2 Application. For the NESHAPs that were to have been promulgated by November 15, 2000, Part 1 was due **May 15, 2002 and because of a recently proposed USEPA Consent Decree, Part 2 Applicability Determination Request will be due no later than the dates specified in the Section 112(j) Settlement Agreement and General Provisions Amendments.**
- ◆ **NOTE: The General Provision Amendments and Settlement Agreement have been proposed.** At this juncture, the Illinois EPA is providing this letter and the attached information to assist you in filing a Part 2 Application with the Illinois EPA after the time my which the Agency has been told that the Settlement Agreement and General Provision Amendments will likely be final (i.e., April, 2003). The enclosed Application form may be used for this purpose. Please complete item number 14 on the form by noting in the appropriate MACT Subpart identification letters to which each source is subject. **NOTE: The subparts should have been listed in the Part 1 filing.**

LETTER (cont)

- ◆ Please mail the completed enclosed form or equivalent information **no later than July 15, 2003** to:

BUREAU OF AIR
ATTN: Donald Sutton
1021 NORTH GRAND AVENUE, EAST
P.O. BOX 19506
SPRINGFIELD, IL 62794-95076

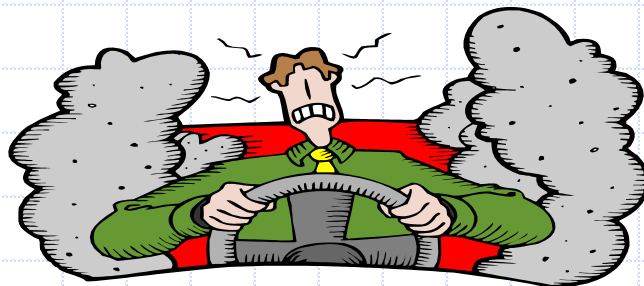
- ◆ If you have any questions, please call Hank Naour at 217/524-4343

Sincerely,

Donald E. Sutton
Manager, Permit Section
Bureau of Air

GENERIC PART 2 FORM

- ◆ Illinois EPA will send a generic Part 2 form to all potentially effected Title V sources;
- ◆ The Part 2 Applicability Form has to be returned no later than July 15, 2003 if an applicability determination is desired.
- ◆ IEPA is continuing to work directly with potential 10-year MACT sources, particularly the coatings MACT sources which are typically good candidates for P2 reductions/eliminations of HAPs, e.g., compliant coatings & solvents, reformulations



PART 2 FORM

See available form copies.

INDUSTRY OUTREACH

- ◆ *Illinois EPA will provide workshop and seminar information for the small business community that may be impacted by Section 112j;*
- ◆ *The Agency is developing CD (DVD) and web-casting access for use by the small business community*

