

Emergency Justification for OMB number 2060-0266

This is an emergency information collection request renewal for the section 112(j) regulations. EPA will prepare an ICR renewal through the normal process, including public notice and comment, during the period this emergency ICR is in effect.

The previous ICR, OMB Control No. 2060-0266 (EPA ICR #1648.04), was allowed to expire May 2005. At that time, it appeared that the underlying 112(j) rule for which this ICR was necessary would no longer be utilized to collect information as all the major source MACT standards had either been promulgated or were to be promulgated before any application would be due under the 112(j) regulations. Thus, it appeared that the section 112(j) regulations had essentially become unnecessary as the need for applications for case-by-case MACT no longer existed.

However, EPA did not envision the consequence of completely vacated MACT standards on the section 112(j) regulations. A series of court decisions have vacated standards for 4 MACT source categories: 1) polyvinyl chloride and copolymers production, 2) brick and structural clay products manufacturing, 3) clay ceramics manufacturing, and 4) industrial, commercial, and institutional boilers and process heaters. The complete vacatur of these rules triggers the requirements of CAA section 112(j) and reinstates the need for the 112(j) regulations. Thus, there is a need for renewal of the ICR. Renewing an ICR using the normal process would take several months and entail two Federal Register notices and a public comment period. Such a delay would hamper the ability of the states and EPA to get case-by-case MACT limits into source permits and would result in a period of uncertainty for States, the regulated industry, and the public in terms of their respective obligations and/or enforcement authorities. It would also be inconsistent with the statutory requirements of section 112(j).

This ICR supports the regulations to implement section 112(j) (40 CFR part 63, subpart B, §§63.50-56). It addresses the information collection burden (hours and costs) to industry respondents subject to these provisions; State and Local agencies that review applications made under these provisions; and the EPA oversight review of a percentage of State/Local decisions.

This ICR includes about 60,500 affected sources, estimated to be potentially subject to the section 112(j) rule, that we anticipate may need to perform the reporting that the rule requires. We estimate up to about 60,500 affected sources may have to prepare and submit Part 1 and Part 2 title V permit applications. It should be noted that the number of affected sources is greater than the number of facilities or plant sites affected, since a plant site can contain numerous affected sources and be affected by multiple MACT standards. We have determined estimated costs based on the number of affected sources; however, we believe that the actual cost will be somewhat less for facilities that contain several affected sources. The average administrative cost per affected source to perform the reporting is estimated to be \$2,163. Total estimated administrative costs for existing sources may be up to \$130,880,000 for all affected sources in all affected source categories over the next three years.