

engines or engine test services for commercial purposes.

B. Affected Source

There were several comments requesting that the definition of affected source be revised to include all engine test cells/stands located at a major source. One commenter added that test cells/stands are typically grouped within a common building, often sharing common manifolds.

The proposed rule defined the affected source as any existing, new, or reconstructed engine test cell/stand used for testing uninstalled stationary or uninstalled mobile (motive) engines that is located at a major source of HAP emissions.

The final rule includes a revised definition of affected source in accordance with the rationale in the amended General Provisions (67 FR 16582): "A broader definition of affected source permits emission requirements to apply to a larger group of processes, activities and equipment, and may thereby facilitate more innovative and economically efficient control strategies." (67 FR 16588). The final rule defines an affected source as the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile (motive) engines located at a major source of HAP emissions.

C. Compliance Dates

Three commenters noted a discrepancy between the language in the proposed preamble and the proposed rule concerning the compliance date.

An inadvertent error in the proposal preamble language was made. The proposal regulatory text was correct. The final rule clarifies the compliance date for existing sources as 3 years after the effective (promulgation) date, and the compliance date for new sources as the effective date or upon startup, whichever is later.

D. Reconstruction

One commenter specifically stated that movement or relocation of portable test stands within a facility should not be considered reconstruction. We do not consider movement or relocation of portable test stands (or related equipment) within a facility to be reconstruction. The revised definition of affected source in the final rule also addresses this issue.

Three commenters had ideas for specific activities to exclude from a reconstruction determination. Two commenters recommended that EPA include a modified definition of

reconstruction in the final rule that would add to the General Provisions definition in 40 CFR 63.2 an exclusion for the cost of replacement or modification of components required to demonstrate compliance with EPA's emission regulations contained in 40 CFR parts 89, 90, and 91. The commenter stated that manufacturers may be forced by regulation to invest in new equipment for test cells and fall under the definition of reconstruction in order to comply with new EPA engine requirements, even though such improvements will not change the capacity or emissions from the cell. A specific definition of reconstruction needs to be applied to engine test cells that only counts costs incurred to increase capacity or if the modification results in increased HAP emissions. The commenter further stated that EPA has previously recognized this problem and adopted a reasonable approach in the final Large Municipal Waste Combustor rule (40 CFR 60.50a(f) and 60.50b(d)), and that the same reasoning could be applied to engine test cells. Another commenter specifically recommended that EPA exclude passive measurement and control instrumentation and electronics from inclusion in a reconstruction evaluation.

According to the recently amended General Provisions, the definition of affected source states, "Reconstruction, unless otherwise defined in a relevant standard, means the replacement of components of an affected or previously nonaffected source to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator (or a State) pursuant to section 112 of the CAA. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of HAP from that source."

Because of the diversity of engine test cells/stands and test requirements used by the various types of engine manufacturers and industry sectors, it is difficult to define what types of test equipment and support equipment comprise a new affected source (e.g. actual engine test cell/stand) or reconstructed affected source. We cannot limit or define reconstruction to

include only those changes that will increase capacity or HAP emissions associated with the engine test cell/stand because there is no way of knowing how the engine test cell/stand will be used in the future. However, we do not consider equipment reconfiguration to be reconstruction.

The regulations for Large Municipal Waste Combustors in 40 CFR 60.50a(f) and 60.50b(d) establish that physical or operational changes made to an existing unit primarily for the purpose of complying with emission guidelines under subpart Cb are not considered a modification or reconstruction. We recognize the precedent set by these provisions with respect to the exclusion of costs for required regulatory modifications to comply with other EPA regulations. We have reviewed the regulatory language in these regulations and conclude that it is appropriate to provide a similar level of flexibility to engine test cells/stands. In response to these comments, the final rule includes new language clarifying that changes made to an existing affected source primarily for the purpose of complying with revisions to engine testing requirements under 40 CFR parts 80, 86, 89, 90, 91, or 92 are not considered a modification or reconstruction. We agree with the commenter that it is appropriate to exclude existing engine test cells that are modified to meet revisions under Title 40 provisions. We believe that it is unnecessary to require these existing test cells to install emission control devices when modifications are due to changes to the federal mobile source regulations and since those improvements will not increase the capacity or the emissions from the test cell/stand. Therefore, those affected sources modified to meet revisions to requirements in those parts and subparts will not be subject to new source MACT.

The final rule also includes language that excludes passive measurement and control instrumentation and electronics from the reconstruction evaluation.

E. New Source MACT

Several commenters stated the proposed new source emissions limits (99.9 percent carbon monoxide (CO) emission reduction or 5 parts per million by volume CO outlet concentration) were too stringent or not attainable. The commenters further stated that the limits should reflect real world applications.

In the proposed rule, EPA used the best information available at the time to determine MACT for both new and existing sources. The EPA reviewed the additional test data submitted during