§ 60.14 Modification.

(a) Except as provided under paragraphs (e) and (f) of this section, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

(b) Emission rate shall be expressed as kg/hr of any pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine emission rate:

(1) Emission factors as specified in the latest issue of “Compilation of Air Pollutant Emission Factors,” EPA Publication No. AP–42, or other emission factors determined by the Administrator to be superior to AP–42 emission factors, in cases where utilization of emission factors demonstrates that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase.
(2) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission factors as referenced in paragraph (b)(1) of this section does not demonstrate to the Administrator’s satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Administrator’s satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator utilizing emission factors as referenced in paragraph (b)(1) of this section. When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in appendix C of this part shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

(c) The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility shall not by itself bring within the applicability of this part any other facility within that source.

(d) [Reserved]

(e) The following shall not, by themselves, be considered modifications under this part:

(1) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category, subject to the provisions of paragraph (c) of this section and §60.15.

(2) An increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility.

(3) An increase in the hours of operation.

(4) Use of an alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to that source type, as provided by §60.1, the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility’s construction specifications as amended prior to the change. Conversion to coal required for energy considerations, as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(f) The relocation or change in ownership of an existing facility.

(g) Within 180 days of the completion of any physical or operational change subject to the control measures specified in paragraph (a) of this section, compliance with all applicable standards must be achieved.

(h) No physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for the purposes of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the 5 years prior to the change.

(i) Repowering projects that are awarded funding from the Department of Energy as permanent clean coal technology demonstration projects (or similar projects funded by EPA) are exempt from the requirements of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the five years prior to the change.

(j)(1) Repowering projects that qualify for an extension under section 409(b) of the Clean Air Act are exempt.
from the requirements of this section, provided that such change does not in-
crease the actual hourly emissions of
any pollutant regulated under this sec-
tion above the actual hourly emissions
achievable at that unit during the 5
years prior to the change.

(2) This exemption shall not apply to
any new unit that:

(i) Is designated as a replacement for
an existing unit;

(ii) Qualifies under section 409(b) of
the Clean Air Act for an extension of
an emission limitation compliance
date under section 405 of the Clean Air
Act; and

(iii) Is located at a different site than
the existing unit.

(k) The installation, operation, ces-
sation, or removal of a temporary
clean coal technology demonstration
project is exempt from the require-
ments of this section. A temporary clean
clean coal control technology demonstra-
tion project, for the purposes of this section
is a clean coal technology demonstra-
tion project that is operated for a pe-
riod of 5 years or less, and which com-
plies with the State implementation
plan for the State in which the project
is located and other requirements nec-
essary to attain and maintain the na-
tional ambient air quality standards
during the project and after it is ter-
minated.

(l) The reactivation of a very clean
clean coal-fired electric utility steam gener-
ating unit is exempt from the require-
ments of this section.

§ 60.15 Reconstruction.

(a) An existing facility, upon recon-
struction, becomes an affected facility, ir-
respective of any change in emission
rate.

(b) “Reconstruction” means the re-
placement of components of an exist-
ing facility 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 re-
quired to construct a comparable en-
tirely new facility, and

(2) It is technologically and economi-
cally feasible to meet the applicable
standards set forth in this part.

(c) “Fixed capital cost” means the
capital needed to provide all the depre-
ciable components.

(d) If an owner or operator of an ex-
isting facility proposes to replace com-
ponents, and the fixed capital cost of
the new components exceeds 50 percent
of the fixed capital cost that would be
required to construct a comparable en-
tirely new facility, he shall notify the
Administrator of the proposed replace-
ments. The notice must be postmarked
60 days (or as soon as practicable) be-
fore construction of the replacements
is commence and must include the fol-
lowing information:

(1) Name and address of the owner or
operator.

(2) The location of the existing facil-
ity.

(3) A brief description of the existing
facility and the components which are
to be replaced.

(4) A description of the existing air
pollution control equipment and the
proposed air pollution control equip-
ment.

(5) An estimate of the fixed capital
cost of the replacements and of con-
structing a comparable entirely new fa-
cility.

(6) The estimated life of the existing
facility after the replacements.

(7) A discussion of any economic or
technical limitations the facility may
have in complying with the applicable
standards of performance after the pro-
posed replacements.

(e) The Administrator will deter-
mine, within 30 days of the receipt of
the notice required by paragraph (d) of
this section and any additional infor-
mation he may reasonably require,
whether the proposed replacement con-
stitutes reconstruction.

(f) The Administrator’s determina-
tion under paragraph (e) shall be based
on:

(1) The fixed capital cost of the re-
placements in comparison to the fixed
capital cost that would be required to
construct a comparable entirely new
facility;

(2) The estimated life of the facility
after the replacements compared to the