

including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitutions of materials, or other modifications; (2) enclosing systems or processes to eliminate emissions; (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage or fugitive emission point; (4) design, equipment, work practices, or operational standards as provided in subsection 112(h) of the CAA; or (5) a combination of the above.

For new sources, MACT based standards cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT based standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the best performing 5 sources for categories or subcategories with fewer than 30 sources.

In essence, these MACT based standards would ensure that all major sources of toxic air emissions achieve the level of control already being achieved by the better-controlled and lower-emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more a year. At the same time, this approach provides a level economic playing field, ensuring that facilities that employ cleaner processes and good emission controls are not disadvantaged relative to competitors with poorer controls.

B. What Is the Regulatory Development Background of the Source Categories in the Proposed Rule?

In September 1996, EPA chartered the Industrial Combustion Coordinated Rulemaking (ICCR) advisory committee under the Federal Advisory Committee Act (FACA). The committee's objective was to develop recommendations for regulations for several combustion source categories under sections 112 and 129 of the CAA. The ICCR advisory committee, known as the Coordinating Committee, formed Source Work Groups for the various combustion types

covered under the ICCR. One of the work groups was formed to research issues related to boilers; another was formed to research issues related to process heaters. The Boiler and Process Heater Work Groups submitted recommendations, information, and data analysis results to the Coordinating Committee, which in turn considered them and submitted recommendations and information to EPA. The Committee's recommendations were considered by EPA in developing the proposed rule for boilers and process heaters. The Committee's 2-year charter expired in September 1998.

Following the expiration of the ICCR FACA charter, EPA decided to combine boilers with units in the process heater source category covering indirect-fired units, and to regulate both under the proposed NESHAP. This was done because indirect-fired process heaters and boilers are similar devices, burn similar fuel, have similar emission characteristics, and emissions from each can be controlled using similar control devices or techniques.

C. What Is the Statutory Authority for the Proposed Rule?

Section 112 of the CAA requires that EPA promulgate regulations requiring the control of HAP emissions from major sources and certain area sources. The control of HAP is achieved through promulgation of emission standards under sections 112(d) and (f) of the CAA and, in appropriate circumstances, work practice standards under section 112(h) of the CAA.

An initial list of categories of major and area sources of HAP selected for regulation in accordance with section 112(c) of the CAA was published in the **Federal Register** on July 16, 1992 (57 FR 31576). Industrial boilers, commercial and institutional boilers, and process heaters are three of the listed 174 categories of sources. The listing was based on the Administrator's determination that they may reasonably be anticipated to emit several of the 188 listed HAP in quantities sufficient to designate them as major sources.

D. What Is the Relationship Between the Proposed Rule and Other Combustion Rules?

The proposed rule regulates source categories covering industrial boilers, institutional and commercial boilers, and process heaters. These source categories potentially include combustion units that are already regulated by other MACT standards. Therefore, we are excluding from today's proposed rule any units that are

already or will be subject to regulation under another MACT standard.

The commercial and industrial solid waste incinerators (CISWI) standards (40 CFR 60, subparts CCCC and DDDD) regulate commercial and industrial nonhazardous solid waste incinerators. Sources subject to the CISWI rules are exempt from the requirements of the proposed rule.

The utility HAP study Report to Congress provides information used to determine whether fossil fuel-fired utility boilers should be regulated in a future MACT standard. A fossil fuel-fired utility boiler is a fossil fuel-fired combustion unit with a heat input greater than 25 megawatts that serves a generator producing electricity for sale. Fossil fuel-fired utility boilers are exempt from the proposed rule. Nonfossil fuel-fired utility boilers are covered by the proposed rule.

The EPA's Office of Solid Waste is in the process of developing MACT based standards for hazardous waste boilers. Boilers burning hazardous waste are not included in the proposed rule.

In 1986, EPA had codified new source performance standards (NSPS) for industrial boilers (40 CFR part 60, subparts Db and Dc) and revised portions of them in 1999. The NSPS regulates emissions of particulate matter (PM), sulfur dioxide, and nitrogen oxides from boilers constructed after June 19, 1984. Sources subject to the NSPS are still subject to the proposed rule because the proposed rule regulates sources of hazardous air pollutants while the NSPS does not. However, in developing the proposed rule for industrial/commercial/institutional boilers and process heaters, EPA minimized the monitoring requirements, testing requirements, and recordkeeping requirements to avoid duplicating requirements.

Because of the broad applicability of the proposed rule due to the definition of a process heater, certain process heaters could appear to fit the applicability of another existing MACT rule. We have, therefore, included in the list of combustion units exempt from the proposed rule refining kettles subject to the secondary lead MACT rule (40 CFR 63, subpart X). This is one combustion unit meeting the definition of a process heater, that we are specifically aware of, that is covered by another MACT standard. Therefore, we are requesting comments on other process heaters that are already or will be subject to regulation under another MACT standard.