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By Hand Delivery or Courier. Deliver your comments (in duplicate, if possible) to: EPA Docket Center, Room B-108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. OAR-2002-0044, Category VI, Part 63 General Provisions (Subpart A) Pollution Prevention Compliance Alternative Amendments. Such deliveries are only accepted during the Docket Center's normal hours of operation as identified in this document.

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Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's

policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Concurrent Rulemaking: In a proposed rule dated August 13, 2002 (67 FR 52674), EPA solicited comments on the incentives designed for Performance Track member facilities. These proposed amendments contain additional incentives for Performance Track member facilities. Persons interested in doing so are encouraged to comment on the additional incentives as they specifically relate to the MACT incentives in the Performance Track proposed rule. It is EPA's intent to finalize both proposed rules as they relate to the NESHAP General Provisions in one final rulemaking. In the final rule, EPA intends to reconcile the two different definitions of "pollution prevention" and "source at a Performance Track member facility" as they appear in these proposed amendments and in the Performance Track proposed rule by adopting the definitions contained in these proposed amendments.

Outline. The information presented in this preamble is organized as follows:

- I. Summary of Proposed Action
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 - A. Definitions
 - B. Option 1: Facilities that Implement Pollution Prevention to Eliminate HAP Emissions Subject to Regulation under a NESHAP Subpart
 - C. Option 2: Facilities that Implement Pollution Prevention to Reduce HAP Emissions to at Least the Level of a NESHAP Subpart
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
 - D. Unfunded Mandates Reform Act of 1995
 - E. Executive Order 13132, Federalism
 - F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer Advancement Act

I. Summary of Proposed Action

We are proposing to amend the NESHAP General Provisions in 40 CFR part 63, subpart A. The individual NESHAP (which are frequently referred to as MACT standards) are codified as subparts within 40 CFR part 63. We are proposing two options:

- **Option 1:** If a facility completely eliminates all HAP emissions from all sources of emissions regulated by the subpart, it could request to no longer be subject to that subpart. This option would be available only where the subpart does not already require complete elimination of HAP emissions from any of the regulated sources of emissions.
- **Option 2:** If a facility uses P2 to reduce HAP emissions either to the level required by the subpart, or below, it could request "P2 alternative compliance requirements." The alternative compliance requirements would include monitoring, recordkeeping, reporting, and/or other requirements which match the P2 measures implemented by the facility. Alternative emission limits could not be included. If approved, the alternative compliance requirements would replace specified requirements in the subpart. This option would be available for any regulated portion of the facility; it would not be necessary for the facility to implement P2 on every source of emissions that is subject to the subpart. Under this option, the facility would remain subject to the subpart, but some of the requirements would be changed.

Either option would be effective only as long as the facility continued to use the P2 measures and to eliminate or reduce HAP emissions as described in the approved request. If the facility discontinued the P2 measures or failed to eliminate or reduce HAP emissions as approved, all applicable requirements of the subpart would again apply immediately, and the facility would be required to comply beginning on that date.

We are also proposing additional incentives for sources at facilities that are members of the Performance Track program.

II. Background

Consistent with the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109), it is our policy to promote and encourage P2 in all our programs. We seek to reduce HAP emissions with alternative approaches that achieve results in innovative and sustainable ways. Preventing pollution at the source is our strategy of first choice. Pollution prevention strategies