

allow facilities the advantage of meeting pollution reduction goals in ways that are most cost effective and appropriate for their individual situations. Furthermore, State and local air pollution agencies have urged us on numerous occasions to do more to encourage P2 in the MACT standards program. For these reasons, we are proposing revisions to the part 63 General Provisions which encourage the development and implementation of P2 measures at facilities that are already subject to NESHAP subparts. By working with State and local agencies in a series of meetings, we have developed this proposal to further this goal.

We are also proposing provisions that would further promote improved environmental performance through incentives that are only available to facilities participating in the Performance Track program. For example, the Administrator will designate a central contact within the EPA to facilitate and expedite the review of a Performance Track member facility's request for pollution prevention alternatives. The Performance Track program was created to recognize, provide incentives, and reward individual facilities that go beyond compliance in their environmental operations and management. The Performance Track program is based on the following premises: Better environmental performance warrants different oversight; the EPA should induce facilities to perform beyond basic compliance; environmental accomplishments should be recognized and rewarded; private and public resources should be used efficiently to these ends; and demonstrated innovative ideas should be included in regulations.

The Agency selects its Performance Track members for entry into the program based on certain criteria. Member facilities must:

- Have adopted and implemented an environmental management system that includes specific elements;
- Be able to demonstrate environmental achievements and commit to continued improvement in particular environmental categories;
- Engage the public, and report to the public on the facilities' performance; and
- Have a record of sustained compliance with environmental requirements.

In addition, member facilities must commit to providing annual reports on the status of their efforts to achieve their commitments to making improvements in specific environmental categories and

to maintaining their qualifications as program participants.

In line with these premises and criteria, we are proposing provisions that would provide additional incentives only to those sources at facilities that are members of the Performance Track program.

### III. Proposed Amendments to the Part 63 General Provisions

We are proposing to amend the General Provisions for the MACT-based NESHAP, which are codified at 40 CFR part 63, subpart A. The General Provisions establish the framework for emission standards and other requirements developed pursuant to section 112 of the CAA. The General Provisions eliminate the repetition of general information and requirements in individual NESHAP subparts by consolidating all generally applicable information in one location. They include sections on applicability, definitions, compliance dates and requirements, monitoring, and recordkeeping and reporting, among others. In addition, they include administrative sections concerning actions that the EPA Administrator must take, such as making determinations of applicability, reviewing applications for approval of new construction, responding to requests for extensions or waivers of applicable requirements, and generally enforcing NESHAP. The General Provisions apply to every facility that is subject to a NESHAP subpart, except where specifically overridden by that subpart.

We are proposing to add definitions for "pollution prevention" and "source at a Performance Track member facility" to § 63.2 of the General Provisions.

The proposed amendments would also add two sections to the General Provisions. New § 63.17 (Option 1) would provide a mechanism for a facility that uses P2 to eliminate completely all HAP emissions regulated under a NESHAP subpart to become exempt from that subpart. New § 63.18 (Option 2) would provide a mechanism enabling a facility that uses P2 to reduce HAP emissions to at least the level required by a NESHAP subpart to replace select requirements of the subpart with requirements appropriate to the P2 measures.

#### A. Definitions

We are proposing to add the following definitions for "pollution prevention" and "source at a Performance Track member facility" to § 63.2 of the General Provisions:

*Pollution prevention* means *source reduction* as defined under the

Pollution Prevention Act. The definition is as follows:

(1) *Source reduction* is any practice that:

(i) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

(2) The term *source reduction* includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(3) The term *source reduction* does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

This definition is taken directly from the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109). We are proposing to add this definition to clarify the types of actions that we intend to consider in qualifying a facility for Option 1 or 2.

The Pollution Prevention Act establishes the following hierarchy for managing pollution and wastes: source reduction, recycling, treatment, and disposal. Because Congress' primary focus in this statute was source reduction, we are proposing to limit availability of Options 1 and 2 to facilities whose P2 measures qualify as source reduction.

*Source at a Performance Track member facility* means a major or area source located at a facility which has been accepted by EPA for membership in the Performance Track program (as described at <http://www.epa.gov/performance-track>, formerly known as the Achievement Track Program) and is still a member of the program. The Performance Track program is a voluntary public-private partnership that encourages continuous environmental improvement through the use of environmental management systems, local community outreach, and measurable results.