

established by the final rule may not be challenged separately in civil or criminal proceedings brought to enforce these requirements.

**Background Information Document.** The EPA proposed the NESHAP for miscellaneous organic chemical manufacturing on April 4, 2002 (67 FR 16154), and received 53 comment letters on the proposal. A background information document (BID) ("National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Miscellaneous Organic Chemical Manufacturing Industry, Summary of Public Comments and Responses,") containing EPA's responses to each public comment is available in Docket ID No. OAR-2003-0121.

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

- I. Background
  - A. What is the source of authority for development of NESHAP?
  - B. What criteria are used in the development of NESHAP?
  - C. What is the history of the source categories?
  - D. What are the health effects associated with the pollutants emitted from miscellaneous organic chemical manufacturing?
  - E. How did we develop the final rule?
- II. Summary of the Final Rule
  - A. What are the affected sources and emission points?
  - B. What are the emission limitations and work practice standards?
  - C. What are the testing and initial compliance requirements?
  - D. What are the continuous compliance requirements?
  - E. What are the notification, recordkeeping, and reporting requirements?
- III. Summary of Environmental, Energy, and Economic Impacts
  - A. What are the air emission reduction impacts?
  - B. What are the cost impacts?
  - C. What are the economic impacts?
  - D. What are the non-air health, environmental, and energy impacts?
- IV. Summary of Responses to Major Comments
  - A. What changes to applicability did the commenters suggest?
  - B. How did we change the compliance dates?
  - C. How did we develop the standards?
  - D. Standards for Process Vents
  - E. Storage Tank Standards
  - F. Standards for Wastewater Systems
  - G. Standards for Equipment Leaks
  - H. Standards for Transfer Racks
  - I. Pollution Prevention
  - J. Initial Compliance
  - K. Ongoing Compliance
  - L. Recordkeeping and Reporting
  - M. Startup, Shutdown, and Malfunction
  - N. Change Management
  - O. Overlapping Requirements
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review

- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act
- D. Unfunded Mandates Reform Act
- 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 and Safety Risks
- H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Congressional Review Act

## I. Background

### A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and some area sources of HAP and to establish NESHAP for the listed source categories and subcategories. A major source of HAP is a stationary source or group of stationary sources located within a contiguous area under common control that has the potential to emit greater than 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 22.7 Mg/yr (25 tpy) of any combination of HAP.

### B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable, taking into consideration the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that all major sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT 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 (or the best-performing five

sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. In considering whether to establish standards more stringent than the floor, we must consider cost, non-air quality health and environmental impacts, and energy requirements.

### C. What Is the History of the Source Categories?

Section 112 of the CAA requires us to establish rules for categories of emission sources that emit HAP. On July 16, 1992, we published an initial list of 174 source categories to be regulated (57 FR 31576). The listing was our best attempt to identify major sources of HAP by manufacturing category. Following the publication of that listing, we published a schedule for the promulgation of emission standards for each of the 174 listed source categories. At the time the initial list was published, we recognized that we might have to revise the list from time to time as better information became available.

Based on information we collected in 1995, we realized that several of the original source categories on the list had similar process equipment, emission characteristics and applicable control technologies. Additionally, many of these source categories were on the same schedule for promulgation, by November 15, 2000. Therefore, we decided to combine a number of source categories from the original listing into one broad set of emission standards. Today's final rule reflects the subsumption of the following source categories into a new source category called Miscellaneous Organic Chemical Manufacturing: benzyltrimethylammonium chloride production, carbonyl sulfide production, chelating agents production, chlorinated paraffins production, ethylidene norbornene production, explosives production, hydrazine production, photographic chemicals production, phthalate plasticizers production, rubber chemicals production, symmetrical tetrachloropyridine production, OBPA/1,3-diisocyanate production, alkyd resins production, polyester resins production, polyvinyl alcohol production, polyvinyl acetate emulsions production, polyvinylbutyral production, polymerized vinylidene chloride production, polymethylmethacrylate production, maleic anhydride copolymers production, ammonium sulfate production—caprolactam by-product plants, and quaternary ammonium