

Response: We have not incorporated the requested exemption because it is not supported by the available data.

Comment: One commenter requested an exemption for waterborne coatings.

Response: We have not included an explicit exemption for waterborne coatings because the HAP content of a waterborne coating could be relatively high as long as the HAP is soluble in water. However, a source can reformulate coatings to contain less than 5 percent HAP as a means of meeting the process vessel vent emission limits and work practice standards for existing sources.

Comment: One commenter requested an exemption for low vapor pressure HAP.

Response: We did not provide an exemption for low vapor pressure HAP materials because we could not justify a no emissions reduction MACT floor for these materials based on our information. We did not collect information that could be used to support the concept that process vessels containing only low vapor pressure materials would not be controlled to the same levels as those containing higher vapor pressure materials. Further, we reviewed HAP storage tank throughput at facilities that reported control of process vessels, and noted that lower vapor pressure HAP, such as glycol ethers and ethylene glycol, were also used at these facilities. However, for the final rule, we have written the standard for stationary process vessels at existing sources to require 75 percent reduction only for HAP with a vapor pressure greater than or equal to 0.6 kPa. We made this change based on a revised analysis that showed the total impacts of the regulatory alternative are unreasonable for HAP with vapor pressures less than 0.6 kPa. Thus, these HAP must be controlled to the MACT floor level of 60 percent.

Comment: Three commenters requested clarification of how to determine whether 40 CFR part 63, subpart FFFF, or 40 CFR part 63, subpart HHHHH, applies to their operations. One commenter noted that the proposed definition of "coating manufacturing" is expansive and would unnecessarily subject facilities to both subparts.

Response: If the product being manufactured is a coating, and the manufacturing steps involve blending, mixing, diluting, and related formulation operations, without an intended reaction, then the process is subject to subpart HHHHH. If a reaction as well as various other operations are involved, then the process typically is subject to subpart FFFF. However, if the

downstream formulation operations are distinct from the preceding synthesis process(es), (perhaps because the synthesized product is isolated and some of it is sold or transferred offsite), then the formulation operations are subject to subpart HHHHH, and the synthesis operations are subject to subpart FFFF. In the event that equipment used for manufacturing products in processes that are subject to subpart FFFF is also used for coating manufacturing operations that are subject to subpart HHHHH, then the primary use of the equipment determines applicability.

B. How Did We Develop the Standards?

Comment: According to one commenter, the lack of standards for all HAP is unlawful. The commenter cited hydrogen chloride (HCl), hydrogen fluoride, chlorine, potassium compounds, and maleic and phthalic anhydrides as examples of HAP that are not regulated. Another commenter recommended listing the HAP that are subject to the final rule, or cross-referencing Table 2 in subpart F of the HON.

Response: The standards in subpart HHHHH apply to all HAP that are used in coating manufacturing. Of the six compounds cited by the first commenter, only HCl and phthalic anhydride are listed in our database. All process vessels larger than 250 gallons that emit any HAP, including the six cited by the first commenter, must be controlled. We did not list the HAP in the final rule because the rule applies to all HAP listed in the Clean Air Act.

Comment: One commenter stated that the thresholds in the proposed subpart HHHHH unlawfully exempt emission points from control. According to the commenter, all emission points must be controlled.

Response: We disagree that every emission point at a major source must be required to reduce emissions. First, section 112(a) of the CAA defines "stationary source" (through reference to section 111(a)) as: " * * * any building, structure, facility, or installation which emits or may emit any air pollutant * * * ." (42 U.S.C. 7412(a)(3) and 7411(a)(3)). The General Provisions for the MACT program define the term "affected source" as " * * * the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 * * * ." (40 CFR 63.2). Nothing in the definition of

"stationary source" or in the regulatory definition of "affected source" states or implies that each emission point or volume of emissions must be subjected to control requirements in standards promulgated under CAA section 112.

Further, even under the commenter's interpretation of "stationary source," the Agency would still have discretion in regulating individual emission sources. Section 112(d)(1) of the CAA allows the Administrator to " * * * distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards * * * ." We interpret this provision for the miscellaneous coating manufacturing NESHAP, as we have for previous rules, as allowing emission limitations to be established for subcategories of sources based on size or volume of materials processed at the affected source. Under the discretion allowed by the CAA for the Agency to consider sizes of sources, we made the determination that certain small-capacity and low-use operations (e.g., smaller storage tanks) can be analyzed separately for purposes of identifying the MACT floor and determining whether beyond-the-floor requirements are reasonable. In addition, our MACT floor determinations for certain categories (e.g., stationary process vessels), which are set according to section 112(d)(3) of the CAA, reflect the performance levels of the best-performing sources for which we had information, including vapor pressure thresholds or cutoffs below which the best-performing sources do not reduce emissions.

In general, our MACT floor determinations have focused on the best-performing sources in each source category, and they consider add-on control technologies as well as other practices that reduce emissions. As part of our information collection effort, we requested information on emission reduction measures. We generally did not receive information indicating that, for the emission points covered by 40 CFR part 63, subpart HHHHH, sources are currently reducing emissions through measures other than control technologies (e.g., by fuel switching or raw materials or process changes) in sufficient numbers to support a MACT floor based on such measures. Accordingly, our standards include a performance level that represents the level achieved by the best control technology, and a threshold or cutoff that represents the lowest emission potential that is controlled by the best 12 percent of sources. Because the miscellaneous coating manufacturing source category is broad in terms of the