

decline to accept wastewater if they are unnecessarily burdened with compliance requirements under the final rule. The commenter noted that a similar change was made recently to the NESHAP for Publicly Owned Treatment Works (POTW) in response to litigation.

Response: The miscellaneous coating manufacturing database contains ten streams from nine facilities. The 30 streams cited by one commenter was a preliminary draft value that was subsequently changed because it was incorrect.

After consideration of the comments, we decided to make two changes to the MACT floor analysis. First, to simplify the analysis, we have focused on only the actual management and treatment techniques used for the top performing five streams rather than calling them HON-equivalent. All five of these streams are collected and shipped offsite for destruction by combustion at a RCRA hazardous waste treatment facility. Second, we have decided that specifying only a concentration cutoff for determining which streams are subject to control is insufficient. Specifying only the concentration means even very small streams would be subject to control as long as the concentration of HAP listed on Table 9 of the HON (*i.e.*, partially soluble and soluble HAP in the final rule) is greater than or equal to 4,000 ppmw, but this is inconsistent with the statutory requirement to base the floor on the average of the top five streams. We considered specifying either load or flow rate in addition to the concentration, and we decided that load is the best choice. For the top five streams, the load tracks better with the concentration (*i.e.*, ranking the controlled streams by increasing load is the same as ranking by increasing concentration).

Of the top five streams, the median stream has a HAP concentration of 4,000 ppmw and a HAP load of 750 lb/yr. We continue to use the median rather than the mean because the median better represents the central tendency of the data. The top five streams (as well as the other five streams in the database) are skewed towards low concentrations; three of the five have relatively similar low concentrations, but the other two streams have concentrations ten or more times higher. A mean would be closer to the midpoint of the range, but it would not represent the bulk of the data. Therefore, the revised existing source MACT floor for wastewater consists of treatment as a hazardous waste for all streams with partially soluble and soluble HAP at a concentration greater than or equal to

4,000 ppmw and a load greater than or equal to 750 lb/yr. We estimate that a standard based on the MACT floor will reduce HAP emissions by 12.9 Mg/yr (14.2 tpy) at a cost of \$306,000 per year.

The revised new source MACT floor is based on the requirements for the best performing stream, which is a stream that contains 1,600 ppmw and 12 lb/yr of partially soluble and soluble HAP. Since this load is negligible, the new source MACT floor consists of treatment as a hazardous waste for wastewater streams that contain partially soluble and soluble HAP at a concentration greater than or equal to 1,600 ppmw at any load.

In setting the MACT floor, we considered whether some facilities may implement emission reduction measures other than control technologies to reduce HAP emissions from wastewater. We requested information on emission reduction measures in our CAA section 114 information collection request. Several facilities reported that they have implemented changes in the type or quantity of cleaning solution used, or in the method of cleaning. However, we do not know how effective these changes were in reducing HAP emissions, and we have no information to conclude that similar measures could be implemented by the facilities that reported HAP in their wastewater. Further, some HAP in the wastewater is HAP that is used in coatings products, and this HAP cannot be reduced without impacting the coating products produced. Therefore, we were unable to set a MACT floor based on emission reduction measures other than treatment.

We examined one regulatory alternative beyond the floor for existing sources that would require treatment as a hazardous waste for wastewater containing partially soluble and soluble HAP at a concentration greater than or equal to 1,000 ppmw and a load greater than or equal to 100 lb/yr. We concluded that the total impacts of this alternative are unreasonable because the incremental cost would be about \$280,000/Mg; it would increase electricity consumption by 640 kwh/yr; increase fuel consumption by 182 million Btu/yr; and increase CO, NO_x, and SO₂ emissions by 0.02 Mg/yr. There would be no wastewater or solid waste impacts. Therefore, the standard for wastewater in the final rule is based on the revised MACT floor.

In addition, analyses for the HON and other projects concluded that enhanced biotreatment for soluble HAP compounds could achieve reductions as high as 99 percent. Because wastewater containing soluble HAP is generated at miscellaneous coating manufacturing

facilities, the final rule also allows onsite or offsite treatment in an enhanced biological treatment unit as an effectively equivalent alternative for soluble HAP. This alternative also may prove to be less costly than treatment as a hazardous waste for high-volume wastewater streams. Finally, we agree with the comment that Resource Conservation and Recovery Act (RCRA) facilities do not need to certify that they are meeting the requirements of subpart HHHHH; therefore, the final rule requires affected sources that ship their wastewater to an offsite facility for treatment as a hazardous waste to note this fact along with the name of the facility to which the wastewater is shipped in their notification of compliance status report.

F. Standards for Equipment Leaks

Comment: One commenter objected to our determination that the MACT floor is a LDAR program. According to the commenter, the actual performance of the best sources was not determined, and the selected program was simply borrowed from another rulemaking. If we make a determination of the floor based on the actual performance of relevant sources, the commenter noted that we must provide the public an opportunity to comment on it, or the rule would be unlawful, and arbitrary and capricious.

Response: The proposed floor was based on actual performance, but this concept takes a different form for equipment leak controls than for controls on other types of emission points because equipment leaks are essentially malfunctions, which are not predictable. However, a program of inspections and repair will ensure that any leaks that do occur are identified and fixed. We rate the performance of different LDAR programs based on the type of leak detection method, leak definition, and leak frequency. Specifically, performance is higher for instrument-based programs (*i.e.*, using portable organic vapor analyzers and EPA Method 21 of Appendix A to 40 CFR part 60) than sensory programs, lower leak definitions, and increased inspection frequency.

Based on the ICR responses from coating manufacturers, more than 12 percent of the facilities are implementing some type of LDAR program. One facility reported using an organic vapor analyzer (OVA), a 10,000 ppmv leak definition, and various monitoring frequencies for the different types of components; this program appears to be similar to the requirements of 40 CFR part 63, subpart TT (National Emission Standards for