

Region X office listed below. Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, WA, 98101.

**FOR FURTHER INFORMATION CONTACT:**

Andrea Wullenweber, US EPA, Region 10 (OAQ-107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553-8760.

**SUPPLEMENTARY INFORMATION:**

This document concerns delegation of unchanged NESHAPs to the Northwest Air Pollution Authority, the Puget Sound Air Pollution Control Agency, and the Southwest Air Pollution Control Agency. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: October 28, 1998.

**Chuck Clarke,**

*Regional Administrator, Region X.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-6190-5]

RIN 2060-AF26

**National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking; notice of public hearing.

**SUMMARY:** A proposed rule for the publicly owned treatment works (POTW) source category is required to implement section 112 of the Clean Air Act as amended (Act) and reflects the Administrator's determination that POTW sources emit hazardous air pollutants (HAP) identified on the EPA's amended list of 188 HAP. The primary HAP emitted by these sources include xylenes, methylene chloride, toluene, ethyl benzene, chloroform, tetrachloroethylene, benzene, and naphthalene.

The emission standards that the EPA is proposing with today's notice would require control for HAP emissions from each new or reconstructed POTW treatment plant which is a major source of HAP. The standards would also

require each existing and new POTW treatment plant that treats specific industrial waste streams from an industrial user, for the purpose of allowing that industrial user to comply with another National Emission Standard for Hazardous Air Pollutants (NESHAP), to meet the treatment and control requirements of the relevant NESHAP. The EPA is not proposing any standard for publicly owned sewage and wastewater collection systems at this time, because sufficient information is not available at present to determine the amount of HAP emissions from such systems or to evaluate the practicality of controlling such emissions.

Although section 112(e)(5) of the Act required the EPA to promulgate a maximum achievable control technology (MACT) standard for POTW by November 15, 1995, the EPA was unable to collect and evaluate the necessary information to meet that deadline. Under the separate schedule for promulgation of MACT standards established by the EPA pursuant to sections 112(e)(1) and (e)(3), the EPA was required to promulgate a MACT standard for POTW by November 15, 1997. However, because the EPA was unable to meet that deadline as well, the MACT "hammer" date may eventually apply to the POTW source category. Under section 112(j)(2), the MACT "hammer" date is the date by which affected facilities will be required to apply for a case-by-case MACT emission limitation if the EPA has not promulgated a generally applicable MACT standard. This date is May 15, 1999.

**DATES:** Comments. Comments must be received on or before January 15, 1999.

**Public Hearing.** A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards for POTW sources. If anyone contacts the EPA requesting to speak at a public hearing by December 16, 1998, a public hearing will be held on December 31, 1998.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), (LE-131), Attention, Docket No. A-96-46, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of comments also be sent to Mr. Robert B. Lucas (see **FOR FURTHER INFORMATION CONTACT** for address). Comments and data may also be submitted electronically by following the instructions below. No confidential

business information (CBI) should be submitted through e-mail.

Electronic comments can be sent directly to the EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disk in WordPerfect in 5.1 file format or ASCII file format. All comments and data submitted in electronic form must note the docket number A-96-46. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

**Public Hearing:** If requested, the public hearing will be held in Research Triangle Park, North Carolina, beginning at 9:30 a.m. Persons interested in attending a public hearing should contact JoLynn Collins, (919) 541-5671, Waste and Chemical Processes Group (MD-13) to determine whether a hearing will be held and to obtain information on the exact location.

**Request to Speak at a Hearing.** Persons wishing to make an oral presentation at a hearing must notify Jo Lynn Collins, Waste and Chemical Processes Group (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5671.

**Docket.** The official record for this rulemaking will be compiled under docket number A-96-46, (including comments and data submitted electronically as described above). All materials in the docket (including a printed version of each electronic comment), excluding any portion of any materials claimed by the submitter as confidential business information, will be available for inspection and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public docket for this rulemaking is located at the address in **ADDRESSES** at the beginning of this document. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the proposed standards, contact Mr. Robert B. Lucas, Waste and Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-0884; facsimile (919) 541-0246; e-mail lucas.bob@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Regulated Entities.** Entities potentially regulated by this action are publicly owned treatment works. Regulated categories and entities include:

Category	Examples of regulated entities
Industry .....	Not affected.
Federal government.	Sewerage Systems (SIC 4952), Sewage Treatment Facilities (NAICS 22132).
State/local/tribal government.	Sewerage Systems (SIC 4952), Sewage Treatment Facilities (NAICS 22132), Municipal Wastewater Treatment Facilities, Publicly Owned Treatment Works.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the Agency is now aware could potentially be regulated by this action. Other types of entities not listed in the table also could be regulated. To determine whether your facility or company is regulated by this action, you should carefully examine the applicability criteria in section III.A of this document and in § 63.1580 of the proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**Internet.** The text of today's notice also is available on the EPA's web site on the Internet under recently signed rules at the following address: <http://www.epa.gov/ttn/oarpg/rules.html>. The EPA's Office of Air and Radiation (OAR) homepage on the Internet also contains a wide range of information on the air toxics program and many other air pollution programs and issues. The OAR's homepage address is: <http://www.epa.gov/oar/>.

**Electronic Access and Filing Addresses.** The official record for this rulemaking, as well as the public version, has been established for this rulemaking under Docket No. A-96-46 (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document.

Electronic comments can be sent directly to the EPA's Air and Radiation Docket and Information Center at: "A-and-R-Docket@epamail.epa.gov." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in

WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A-96-46). No CBI should be submitted through electronic mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. This proposal is available on the technology transfer network (TTN) on the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air emissions control. The service is free and may be accessed via the TTN web site at <http://www.epa.gov/ttn/oarpg>.

The following outline is provided to aid in reading the preamble to today's proposal.

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## I. Background

### A. Requirements of Section 112 of the Clean Air Act

Section 112 of the Act addresses stationary sources of HAP. Section 112(b) of the Act, as amended, lists 188 chemicals, compounds, or groups of chemicals as HAP. The EPA is directed

by section 112 to regulate the emissions of HAP from stationary sources by establishing national emission standards.

The statute requires the EPA to establish standards to reflect the maximum degree of reduction in HAP emissions through application of MACT to major sources. Section 112(a)(1) of the Act defines a major source as:

\* \* \* any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential-to-emit, considering controls, in the aggregate 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

Section 112(d)(3) prescribes a minimum level of control for major sources of HAP, referred to as the MACT floor.

Section 112(e)(5) of the Act required the EPA to promulgate a MACT standard for publicly owned treatment works by November 15, 1995. The EPA was unable to gather and evaluate the necessary information to meet that deadline. Another deadline for promulgation of the POTW MACT standard of November 15, 1997, was established separately by the EPA when it included the POTW standard in the seven-year group in the schedule for MACT standards established pursuant to sections 112 (e)(1) and (e)(3). Under section 112(j)(2) (the "MACT hammer"), if the EPA fails to promulgate a POTW MACT standard by November 15, 1997, major sources in the POTW category would be required to submit within 18 months thereafter (by May 15, 1999) an application for a permit which would impose MACT requirements on a case-by-case basis. Although the EPA was unable to meet the deadline for a POTW standard established by section 112(e)(5), the EPA intends to promulgate a final MACT standard applicable to this source category before any obligation for facilities to file an application under section 112(j)(2) can arise.

### B. Source Category Description

The EPA's initial list of categories of major sources of HAP emissions, established under section 112(c)(1) of the Act, included POTW. This list was published on July 16, 1992 (57 FR 31576).

Section 112(e)(5) of the Act defines POTW by referring to the definition of treatment works in title II of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act. As set forth in section 212(2), 33 U.S.C. 1292(2), treatment works include the wastewater treatment units themselves, as well as intercepting sewers, outfall sewers, sewage collection systems,

pumping, power, and other equipment. Thus, any of these types of facilities which are publicly owned may be a POTW. The wastewater collected, transmitted, and treated by such POTW may be generated by industrial, commercial, and/or domestic sources.

### C. Overview of HAP Emissions from POTW

Some POTW are estimated by the EPA to be major sources of HAP emissions. The primary HAP constituents currently associated with POTW sources include xylenes, methylene chloride, toluene, ethyl benzene, chloroform, tetrachloroethylene, benzene, and naphthalene. There are potential adverse health impacts associated with exposure to these HAP. For example, exposure to methylene chloride adversely affects the central nervous system and results in increased liver and lung cancer in animals, and benzene is a known human carcinogen.

The HAP emitted by POTW originate in wastewater streams discharged by industrial, commercial, and other facilities to the POTW for treatment. Hazardous air pollutants present in wastewater entering POTW treatment plants can biodegrade, adhere to sewage sludge, volatilize to the air, or pass through (remain in the discharge) to receiving waters. Within the POTW category, wastewater treatment units are the most likely source for HAP emissions, but wastewater collection systems (including transport systems) may also have emissions.

The EPA has assessed available information regarding HAP emissions from POTW and currently-used add-on controls. The information supports nationwide requirements for treatment and controls at a subcategory of POTW treatment plants. This subcategory includes POTW treatment plants that treat specific industrial waste streams for the purpose of allowing an industrial user to comply with another NESHAP. The information also supports nationwide requirements for add-on controls at new or reconstructed POTW treatment plants. For detailed information on these requirements see section IV. (Determination of MACT) of today's proposal.

Today's proposal addresses only the wastewater treatment portion of publicly owned treatment works. At this time, insufficient information is available for the EPA to determine whether publicly owned wastewater collection systems are themselves major sources of HAP and whether HAP emissions from such systems can be effectively controlled. The EPA is asking the public for additional information on

emissions and controls for wastewater collection systems, as well as the use of pretreatment to reduce emissions (see section V.A., Pretreatment, of today's proposal). The EPA is also asking if today's proposal makes clear the difference between POTW treatment plants and publicly owned treatment works. All information collected as a result of this solicitation will be included in the docket.

### D. Stakeholder and Public Participation

As prescribed in section 112(n)(3) of the Act:

The Administrator may conduct, in cooperation with the owners and operators of publicly owned treatment works, studies to characterize emissions of hazardous air pollutants emitted by such facilities, to identify industrial, commercial and residential discharges that contribute to such emissions and to demonstrate control measures for such emissions. When promulgating any standard under this section applicable to publicly owned treatment works, the Administrator may provide for control measures that include pretreatment of discharges causing emissions of hazardous air pollutants and process or product substitutions or limitations that may be effective in reducing such emissions.

During the development of the proposed standards, representatives of POTW and sanitation districts were extensively consulted. The EPA has been working with a trade association known as the Association of Metropolitan Sewerage Agencies (AMSA) for approximately six years. During that time, the AMSA members assisted the EPA in identifying, gathering, and assessing available information regarding HAP emissions from POTW, arranging site visits, and providing technical review. In addition, State and local agencies assisted in data gathering and technical review. A database comprising information supplied by the AMSA was used in the evaluation of HAP emissions and emissions control for POTW. Estimates of organic HAP emissions from model sources were developed by the EPA based on information supplied by the AMSA, including most of the modeling inputs used for the EPA WATER8 emissions estimation model (see section II.D., Estimated Hazardous Air Pollutant Emissions, of today's proposal).

The AMSA is an organization that comprises 150 member agencies representing approximately 450 POTW sources that each treat 37.9 thousand cubic meters per day (cmpd) (10 million gallons per day (MGD)) or more. Of the 193 largest cities in the nation, 110 (approximately 60 percent) are represented. The POTW sources associated with these 110 cities treat

approximately 49.2 million cmpd (13,000 MGD), and serve approximately 100 million people (out of the 175 million people in the nation that have sewer service).

## II. Description of HAP Sources and Controls

### A. Summary of Available Information

There are approximately 15,600 publicly owned treatment works nationwide that receive and treat approximately 113.6 million cmpd (30,000 MGD) of domestic, commercial, and industrial wastewater. These POTW range in size from less than 0.4 thousand cmpd to greater than 1.9 million cmpd (less than 0.1 to greater than 500 MGD). However, the majority of these facilities (approximately 80%) treat less than 3.8 thousand cmpd (less than one MGD).

The EPA has reviewed the general literature, conducted site visits, and conducted studies resulting in the development of model wastewater treatment facilities and model waste streams for this source category. In addition, the EPA has interacted with State and local agencies. The most comprehensive information obtained to date has been supplied by the AMSA, as a result of surveys of their members.

The AMSA conducted two separate surveys of their members within the last four years. During 1992-1993, the AMSA surveyed approximately 200 member agencies with well over 300 POTW under their jurisdiction. This survey requested facilities to provide data on liquid phase compounds that could possibly volatilize in the treatment process. In 1994, the AMSA conducted a national survey of over 100 member agencies representing many of the largest POTW in the nation. This survey requested influent monitoring data, with corresponding flow rate through the facilities for the sampling day(s). This data was collected for calendar years 1993 and 1994 for 108 compounds identified by the EPA as potentially being present in wastewater. The information provided to the EPA as a result of these two surveys has been reviewed and analyzed, and is the primary basis for the Agency's conclusions thus far regarding HAP emissions from POTW treatment plants and emission controls.

### B. Hazardous Air Pollutant Types

The primary HAP associated with POTW sources include xylenes, methylene chloride, toluene, ethyl benzene, chloroform, tetrachloroethylene, benzene, and naphthalene. These primary HAP have

the highest concentrations in the influent waste stream, according to data provided to the EPA by the AMSA. In addition, emissions estimation modeling indicates that these primary HAP would be emitted from wastewater treatment units when the compounds are present in the influent at significant concentrations and when treatment units are uncontrolled for air emissions. Most of these primary HAP are discharged to the collection system by industrial sources.

#### C. Hazardous Air Pollutant Sources

Hazardous air pollutants present in wastewater entering POTW treatment plants can biodegrade, adhere to sewage sludge, volatilize to the air, or remain in the discharge to receiving waters. Wastewater treatment processes have traditionally been designed to remove solids and degrade organic matter to meet effluent guidelines, and the fate of HAP in wastewater has not been a design consideration. Chemical properties of each individual HAP, along with the design of POTW treatment plants, determine whether the HAP volatilizes to the atmosphere, or is eliminated through another means. Hazardous air pollutants may be shifted from one medium to another (to the air through volatilization or to sludge through adsorption), or destroyed through biodegradation. In addition, volatilization of HAP may occur in the wastewater collection system prior to reaching the POTW treatment plant.

Typical wastewater treatment is a combination of physical, chemical, and biological processes designed to remove suspended solids and organic matter from solution. Publicly owned treatment works include wastewater collection systems, treatment units, and outfall or disposal units. Although wastewater treatment at most POTW use similar processes, such as settling processes and biological treatment, no two facilities are identical. Each facility differs in design and operation due to varying conditions such as flow, composition of the influent wastewater, and the environmental conditions and treatment requirements of the system. Treatment processes may also differ among facilities.

Different levels of treatment that a POTW treatment plant may employ include primary, secondary, and advanced treatment. In general, primary treatment refers to physical operations to remove floating and settleable solids. Secondary treatment refers to the use of biological processes, in addition to primary processes, to remove organic matter. Advanced treatment refers to the use of additional combinations of unit

operations and processes to remove specific constituents such as nitrogen or phosphorus not removed by prior processes.

A typical POTW consists of a collection system, a series of processes that remove solids, organics, and other pollutants from the wastewater, and a series of processes for managing and treating sludge. In general, most HAP releases at these facilities occur from kinetic stripping caused by turbulent wastewater flow, aeration stripping caused by the addition of air to wastewater, or evaporation. Emissions occur at the first treatment units with both turbulent flow and exposure to the atmosphere. Some POTW have wastewater collection systems that meet these criteria. For other POTW, emissions may not occur until the first open treatment units (i.e., headworks, primary clarifiers, and biotreatment units).

As the waste stream passes through each stage of treatment, the mass of organics is reduced, and thus the potential for emissions of organics is also reduced. Therefore, the potential HAP emissions from advanced treatment, chlorination and dechlorination, sludge digesters, and sludge dewatering are expected to be comparably small. Although the HAP chlorine is used to disinfect treated wastewater prior to discharge, facilities control chlorine feed by monitoring chlorine demand. As a result, minimal free chlorine is available to be emitted. Thus chlorine emissions are expected to be extremely low.

In addition to the wastewater treatment processes at a POTW, other sources of HAP emissions, such as sewage sludge incinerators, may be co-located at the same site. Sewage sludge incineration will be regulated under section 129 of the Act, and will be included in the source category Other Solid Waste Incinerators, that is scheduled for promulgation in the year 2000. Combustion sources at POTW will also be regulated, under section 112, as part of the Industrial Combustion Coordinated Rulemaking. Although these other sources may be regulated separately from POTW, HAP emissions from any source co-located at the same site must be included when determining if the POTW is a major source.

#### D. Estimated Hazardous Air Pollutant Emissions

Of the approximately 15,600 publicly owned wastewater treatment facilities nationwide, only six facilities have been identified thus far as potential major sources of HAP emissions (see section III., Proposed Approach for this Source

Category, of today's proposal, for a description of the determination of major sources). Through the use of emission modeling, these six POTW treatment plants are estimated to emit a total of 245 megagrams per year (Mg/yr) of HAP. The average estimated emissions of HAP from each of these POTW treatment plants is 41 Mg/yr.

The EPA acknowledges that there are uncertainties inherent in any estimate of HAP emissions for sources as diverse as those in the POTW source category. However, the EPA believes that the engineering judgments and methodologies used in developing the HAP emissions estimates for this source category are reasonable given the available information. Documentation of the EPA's analysis is available for public inspection in the docket supporting this rulemaking (see ADDRESSES for further information on the docket). The EPA used the emissions estimation model WATER8 to estimate emissions from POTW, and believes it provides an accurate representation of emissions. However, the EPA requests comment on the use of the WATER8 model for determination of emissions from wastewater treatment processes.

#### E. Hazardous Air Pollutant Control Options

Two different control options, add-on controls (i.e., covers or covers vented to a control device) and pretreatment (i.e., source control), may be utilized by POTW treatment plants. Existing add-on controls are typically used at POTW treatment plants to control odors and are not designed and operated to provide HAP emission reduction. Pretreatment is typically required of industrial users of POTW treatment plants to limit discharge of pollutants that might inhibit treatment operations at the facility or cause exceedences of the outfall discharge requirements by allowing certain compounds to pass through the treatment process in the water phase. Typically, existing add-on controls and pretreatment programs are not designed to prevent emission of HAP, although some incidental reduction may be achieved. Add-on controls and pretreatment programs are discussed further in the following paragraphs.

*Add-on controls.* Some POTW treatment plants have covers on their existing treatment units. These covers are typically either: (1) Vented using a high ventilation rate (e.g., 12 or more air changes per hour); (2) vented using a low ventilation rate; or (3) not vented. When the high ventilation rates are used, the effectiveness of the covers at suppressing emissions is greatly

diminished, if not negated, by the increased air flow across the surface of the wastewater in the process. When the low ventilation rates are used, or the treatment unit is not vented, emissions from the treatment unit covered may be suppressed. Some equipment described by personnel at the POTW as "covers" are actually walkway grates placed over open channels designed to prevent personnel from falling into the treatment unit, and provide no air emission control.

Typically, not all processes at a POTW treatment plant are covered. For example, some facilities cover only the screening unit. While the cover provides suppression of emissions from the treatment unit covered, it is likely that the suppressed emissions are released from the uncovered physical processes downstream. Therefore, even though suppression of the emissions in the covered treatment unit reduces emissions from that treatment unit, the suppressed emissions likely occur from the next physical process in the wastewater treatment. Thus, the covered treatment unit results in only a very small, if any, overall emission reduction from the POTW treatment plant. Using the WATER8 emissions estimation model, the EPA has estimated emissions from the six identified major POTW treatment plants. The results of this modeling indicate that overall emission reduction due to these covers is minimal (less than one percent).

The covers used at existing POTW treatment plants are sometimes vented to odor control devices. Odor control devices currently in use include caustic scrubbers and granulated activated carbon (GAC) adsorption units. Caustic scrubbers are used to remove sulfur compounds by venting process emissions through a caustic water solution. Recent studies indicate that these odor control devices have little, if any, effect on removing the HAP of concern for POTW treatment plants. In addition, the AMSA has indicated, and the EPA concurs, that caustic scrubbers are ineffective at HAP emission reduction.

Properly designed, operated, and maintained GAC adsorption units have been demonstrated to achieve at least a 95% reduction in HAP and volatile organic compound (VOC) emissions in some applications. According to the AMSA, however, GAC installed at POTW treatment plants (with one identified exception) are designed and operated for the purpose of odor control. Such GAC adsorption units have much less frequent replacement or regeneration of the carbon than GAC adsorption units designed for HAP

control and, as a result, provide no effective overall HAP emission reduction. Therefore, the EPA has concluded that GAC adsorption units in place and operated for the purpose of odor control at POTW treatment plants are ineffective at reducing HAP emissions.

The one exception identified is a POTW treatment plant where GAC adsorption units have been installed at the facility and are operated and maintained, at the expense of a petroleum refinery, to reduce risk from benzene emissions associated with refinery wastewater. This exception is discussed in section III (Source Category Subcategorization) of today's proposal.

**Pretreatment.** The pretreatment program is authorized by the Clean Water Act. Regulations at 40 CFR 403.8(a) require all POTW that have a total design flow greater than five MGD and receiving pollutants from industrial users which pass through or interfere with the operation of the POTW or are otherwise subject to pretreatment standards to establish pretreatment programs. POTW agencies establish programs of pretreatment requirements for the industrial users discharging to their POTW. The programs must include the legal authority to allow the agencies to control the concentration of pollutants entering the POTW treatment plants. Such pollutants, if not limited in the POTW influent, may cause treatment process inhibition (e.g., adversely affecting the biotreatment organisms or present a safety/health concern to facility workers). They may also cause the facility to exceed its outfall discharge requirements by allowing certain compounds to "pass-through" the treatment process and be discharged in the outfall waters at concentrations greater than permitted allowances. Finally, these pollutants can reduce sludge quality and limit sludge disposal options.

The AMSA and representatives of State and local agencies, in meetings with the EPA, have recommended pretreatment as the preferred method for reducing HAP emissions from POTW treatment plants. Pretreatment would reduce HAP emissions from POTW treatment plants by reducing the concentration of HAP entering the facilities. Pretreatment would also reduce HAP emissions from the wastewater collection systems between the source and the POTW treatment plants. Studies of HAP emissions from wastewater collection systems indicate that such losses could be significant.

The EPA's review of available information regarding pretreatment has revealed little substantive data on its

effectiveness at reducing HAP emissions. However, the EPA believes that pretreatment for HAP may be a viable means to further reduce HAP emissions from POTW. Examples of pretreatment for HAP include reduction of HAP at the source (e.g., industrial process modifications; substitution of HAP compound with a non-HAP compound) or physical/chemical treatment of the waste stream prior to discharge from the industrial/commercial facility (e.g., steam stripping). For certain POTW, pretreatment could reduce HAP emissions from both the collection system and the POTW treatment plant. However, information available to the EPA on the use of pretreatment to control HAP emissions from POTW is insufficient to propose any regulatory action at this time. The EPA intends to investigate the potential for HAP emission reduction as a result of pretreatment, based on information received as a result of today's proposal (see section V., Solicitation of Comments, of today's proposal).

### III. Proposed Approach for Source Category Subcategorization

As prescribed in section 112(d) of the Act, the level of control for existing major sources shall be no less stringent than:

\* \* \* the average emission limitation achieved by the best performing 12 percent of the existing sources . . . for categories and subcategories with 30 or more sources, or . . . the average emissions limitation achieved by the best performing five sources . . . for categories or subcategories with fewer than 30 sources.

This minimum level of control is referred to as the "MACT floor." The MACT floor level for new major sources:

\* \* \* shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source.

After determining any applicable MACT floor for each category or subcategory, the EPA then adopts a MACT standard for that category or subcategory which reflects the maximum degree of reduction in emissions of HAP which is achievable, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements.

The MACT floors and MACT standards for a source category are based on available information. As prescribed in section 112(n)(3) of the Act (see section I.D., Stakeholder and Public Participation, of today's proposal), the EPA utilized information provided by the AMSA to assist in

determining MACT for this source category. As discussed in section II.A. (Summary of Available Information) of today's proposal, the AMSA provided the EPA with data received from some of its members. The AMSA identified a group of 19 POTW treatment plants from which they believed potential major sources could be identified. These 19 facilities were identified by the AMSA because they had influent HAP loadings of more than 10 tpy for a single constituent or more than 25 tpy for a combination of constituents, or because the AMSA believed they had the ability to be potential major sources based on knowledge and professional judgment. Based on a modeling of these 19 POTW treatment plants, only six are potential major sources. The EPA based its determination of the MACT floor for this source category on these six sources.

Of the six potential major sources identified, one POTW treatment plant is substantially different from the others. Until recently, the EPA believed that this source was used by a petroleum refinery to treat benzene-containing wastes to meet their obligations under the National Emission Standard for Benzene Waste Operations (40 CFR Part 61, Subpart FF). Based on new information from the POTW, the EPA recently learned that the POTW controls benzene emissions in response to the California Air Toxics Information and Assessment Act of 1987 (AB2588) (see section IV., Determination of MACT, of today's proposal), rather than in response to the Benzene Waste Operations NESHAP.

Although the EPA is not at this time aware of any instance where an industrial user uses a POTW treatment plant to comply with emission reductions required by any other NESHAP, the EPA believes that such dischargers may exist now or in the future. Over the years, many industries have used POTW treatment plants designed to treat industrial wastewater along with the municipal wastewater. As NESHAP that require the control of HAP emissions from wastewater are promulgated, industrial users may elect, where it is permissible under the NESHAP, to comply with these standards through off-site treatment of their wastewater at POTW rather than by adding emission controls to on-site industrial wastewater treatment plants. When an industrial user elects to utilize controls installed and operated at POTW to comply with another NESHAP (e.g., carbon adsorbers operated in a manner that controls HAP emissions, closed conveyance of wastewater between processes, operation of leak

detection and repair programs), these controls will likely be considerably more stringent than those which would otherwise be typical at POTW treatment plants not treating regulated industrial waste streams. In such instances, the POTW would operate the controls as the agent of the industrial user, who would in turn be responsible for compliance with the other NESHAP. By establishing a subcategory for POTW treatment plants that treat regulated industrial waste streams, the EPA will also be able to directly enforce compliance by POTW with the wastewater provisions of any corresponding industrial NESHAP when off-site wastewater treatment is used.

Currently, many chemical plants are deciding how to comply with the wastewater provisions of the Hazardous Organic NESHAP (40 CFR Part 63, Subpart G), and some may elect to add air pollution controls to a POTW treatment plant providing off-site treatment. As more NESHAP are promulgated, more of these industrial POTW treatment plants are likely to be identified.

Therefore, the EPA intends to establish the following two subcategories for the POTW source category: (1) The industrial POTW treatment plants subcategory, that would include POTW treatment plants where treatment of a specific industrial waste stream discharged to the facility is expressly required to comply with the requirements of another NESHAP, and (2) the non-industrial POTW treatment plants subcategory, that would include all remaining POTW treatment plants that do not meet the characteristics of an industrial POTW treatment plant.

The industrial POTW treatment plants subcategory would include only those POTW treatment plants that are treating a specific regulated industrial waste stream to allow an industrial user to comply with another NESHAP. Such facilities would be determined on an individual basis. The industrial POTW treatment plants subcategory would not include POTW treatment plants that accept industrial waste for treatment from an industrial user whose waste is not specifically regulated under another NESHAP. Examples of POTW that would not be in the industrial POTW treatment plants subcategory, as proposed, would include POTW treatment plants that accept waste from local manufacturing facilities whose waste is typically characterized as a permitted industrial discharge by the POTW's source control program.

#### IV. Determination of MACT

As prescribed in section 112(d) of the Act, the MACT floor for existing sources in each subcategory within the POTW source category is determined by the average emissions limitation achieved by the best performing five sources, because fewer than 30 major sources have been identified within each subcategory. For the non-industrial POTW treatment plants subcategory, only six potential major sources have been identified. The MACT floor was determined for existing sources from the average emission reduction attributed to the controls among the five best performing sources of the six potential major sources.

During the development of this proposed rule, no major source has been identified which would be included in the proposed industrial POTW treatment plants subcategory. Therefore, in determining MACT for existing sources in this subcategory, the EPA has not identified any corresponding MACT floor. The MACT standard for existing sources in the industrial POTW treatment plants subcategory will be equivalent to the control requirements specified by the applicable NESHAP for the specific regulated industrial waste streams discharged to the facility.

As prescribed in section 112(d)(3) of the Act, the maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. For the non-industrial POTW treatment plants subcategory, the best performing source has been identified based on a review of emission controls in place at the six identified potential major sources. In addition, the EPA may consider technology that has been demonstrated at one or more similar facilities in identifying the best controls for new sources.

The EPA has identified one POTW treatment plant that has covered all wastewater treatment units up to, but not including, the secondary influent pumping station. In addition, the air in the headspace of the bar screens, grinders, grit chambers, and aerated distribution channels is ducted to control devices which use activated carbon to remove hazardous air pollutants. Therefore, the MACT floor for new sources in the non-industrial POTW treatment plants subcategory was determined based on the controls at the one identified best performing source.

For the industrial POTW treatment plants subcategory, the MACT floor for new sources was determined based on the emission controls at the best performing source in the non-industrial POTW treatment plants subcategory. MACT for new sources in this category was determined to be the MACT floor as defined for non-industrial POTW treatment plants, or the emission controls which would be imposed by the appropriate industrial NESHAP, whichever is more stringent.

The Agency has discretion to use its best engineering judgment in collecting and analyzing the data, and in assessing the data's comprehensiveness, accuracy, and variability, to determine which sources achieve the best average emission reductions. The term "average," as it pertains to MACT floor determinations, is not defined in section 112 of the Act. Therefore, the Agency has discretion in determining the appropriate "average" (i.e., mean, mode, median, or some other measure of central tendency) in each category or subcategory of HAP sources (59 FR 29196).

A description of the MACT floor and MACT determinations for the treatment portion of existing and new sources in the POTW subcategories is presented in the following subsections. The EPA believes that, in addition to the add-on controls considered in determining the MACT floor, there are opportunities for controlling HAP emissions from POTW through pretreatment. However, as described in section II.E. (Hazardous Air Pollutant Control Options) of today's notice, information available to the EPA thus far on pretreatment programs at individual POTW is insufficient to propose any action regarding the use of pretreatment for the purpose of HAP emission reduction from POTW.

#### *A. MACT for Existing Sources in the Non-Industrial POTW Treatment Plants Subcategory*

Based on information available to the EPA on HAP emissions from wastewater to date, the EPA believes there are fewer than 30 potential major sources in the non-industrial POTW treatment plants subcategory. Therefore, the MACT floor for this subcategory would be based on the average emissions limitation achieved by the best performing five sources of the identified potential major sources.

Six potential major sources have been identified in the non-industrial POTW treatment plants subcategory (see section III., Proposed Approach for this Source Category, of today's proposal). The information provided by the AMSA on the six potential major sources was

reviewed to determine the extent of controls currently in operation for each stage of wastewater treatment at the POTW treatment plant (i.e., headworks, primary clarification, high purity oxygen activated sludge, and conventional activated sludge).

Of the five potential major sources considered to be the best controlled, one POTW treatment plant reduces HAP emissions with covers on all treatment units up to and including the aerated distribution channels following the primary clarifiers. In addition, all covered treatment units, except the primary clarifiers, have headspace ducted to a two-stage control device. The control device combines a first-stage caustic scrubber to remove odors, with second-stage activated carbon adsorption which removes hazardous air pollutants. Plant operators replace carbon monthly based on routine monitoring for benzene breakthrough. Two other POTW treatment plants have various configurations including treatment units in highly ventilated buildings, treatment units covered with open grates, and open treatment units, none of which provide any HAP emission reduction. Neither of these two sources have treatment units with air emission controls. Finally, the two remaining sources have no covers on their wastewater treatment units up to and including the aerated distribution channels following the primary clarifiers.

All of the five best-controlled potential major sources utilize conventional activated sludge processes, which are either diffused air or mechanically mixed activated sludge. None of these processes are controlled for air emissions. Two of the five best-controlled potential major sources also utilize high purity oxygen activated sludge. Neither of these processes have air pollution control devices.

Computation of an arithmetic average of the performance among the one POTW treatment plant with HAP emission controls and the four POTW treatment plants without controls would be meaningless because there is no continuum of performance among the sources. The EPA has discretion in determining the appropriate "average" in each category or subcategory. Computation of an arithmetic average, or mean, is not appropriate in this case because the average emission reduction calculated from one well-controlled facility and four uncontrolled facilities does not correspond to any treatment technology. Therefore, a measure of central tendency other than the mean must be used to determine the MACT floor. On the basis of either the median

or the mode, the MACT floor would be no control. Therefore, based on this rationale, the MACT floor for existing sources in the non-industrial POTW treatment plants subcategory is no additional control for HAP emissions.

In addition to the MACT floor analysis, the EPA has evaluated the available options for HAP control at existing sources in the non-industrial POTW treatment plants subcategory. Although pretreatment by dischargers may be a viable option for controlling HAP emissions, the EPA has not identified any additional emission controls which could be installed at the POTW treatment plants themselves which would achieve meaningful HAP reductions at a reasonable cost. Therefore, the EPA is not proposing any MACT requirements for existing sources in this subcategory.

#### *B. MACT for New Sources in the Non-Industrial POTW Treatment Plants Subcategory*

Of the five best-controlled potential major sources considered in the MACT floor determination for the non-industrial POTW treatment plants subcategory, one source clearly has the best controls in place. This POTW installed controls to reduce benzene emissions and to lower risk as part of a good neighbor policy in response to the California Air Toxics Information and Assessment Act of 1987 (AB2588). This source has covers on all wastewater treatment units up to, but not including, the secondary influent pumping station. In addition, this source uses a closed-vent system to duct the headspace of all covered treatment units, except primary clarifiers, to granular activated carbon control devices which are effective at reducing HAP emissions. This source sets the MACT floor and is the basis for the MACT standard for new or reconstructed sources in the non-industrial POTW treatment plants subcategory.

#### *C. MACT for Existing Sources in the Industrial POTW Treatment Plants Subcategory*

Because the EPA has not at this time identified any sources in this proposed subcategory, determination of a MACT floor for this subcategory is not feasible. Any existing source in this subcategory will be a POTW treatment plant which installs and operates specific HAP controls because it receives from an industrial user a waste stream which requires controls pursuant to another NESHAP. The industrial facility discharging the waste stream to the POTW is responsible for compliance with the emission control requirements

of the industrial NESHAP, and the POTW may be considered its agent for purposes of such compliance. A POTW receiving regulated waste streams from multiple sources would need to install and operate controls which meet all requirements of the NESHAP applicable to the sources. In the case of conflicting NESHAP requirements, the more stringent of the requirements will apply. This proposed standard would establish an equivalent MACT control requirement directly applicable to affected sources in the industrial POTW treatment plants subcategory.

#### *D. MACT for New Sources in the Industrial POTW Treatment Plants Subcategory*

New sources within the industrial POTW treatment plants subcategory would be new or reconstructed POTW treatment plants receiving from an industrial user a waste stream subject to another NESHAP where the discharger has elected to comply with the NESHAP by utilizing off-site treatment. As in the case of existing sources in this subcategory, the EPA is proposing to establish a parallel control requirement directly applicable to new and reconstructed sources in the industrial POTW treatment plants subcategory.

As noted earlier, the control requirements for new and reconstructed sources cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. There is no logical reason why new or reconstructed sources in the industrial subcategory cannot achieve emission reductions at least as great as those for other new or reconstructed POTW treatment plants. Accordingly, the MACT floor for new or reconstructed industrial POTW treatment plants is based on the same source as was utilized for new or reconstructed sources in the non-industrial category. In order to assure that control requirements are at least equivalent to those established by the applicable industrial NESHAP, the MACT standard proposed for new or reconstructed sources in the industrial POTW treatment plants subcategory is the HAP controls required by the specific NESHAP applicable to the industrial user, or the control requirement(s) for new sources in the non-industrial POTW treatment plants subcategory (see section IV.B., MACT for New Sources in the Non-Industrial POTW Treatment Plants Subcategory, of today's proposal), whichever is more stringent.

#### **V. Solicitation of Comments**

Comments are specifically requested on two aspects of today's proposal, pretreatment and wastewater collection systems, as described in the following paragraphs. The Agency has determined that it needs more information on these two aspects to assist in defining the importance of their effect on HAP emissions from POTW. Information received as a result of this solicitation will be reviewed, analyzed, and summarized by the EPA. If the EPA receives information indicating that its original conclusions regarding HAP emissions and controls are substantially incorrect, the EPA will review its current proposal in light of such information. In addition to information received as a result of this solicitation, the EPA intends to provide information that has been reviewed and analyzed during the proposal development process thus far (e.g., emissions estimation models, emissions control techniques) as guidance on the reduction of HAP emissions from POTW.

##### *A. Pretreatment*

The pretreatment program is authorized by the Clean Water Act. Regulations at 40 CFR 403.8(a) require all POTW that have a total design flow greater than five MGD and that receive pollutants from industrial users which pass through or interfere with the operation of the POTW or are otherwise subject to pretreatment standards to establish pretreatment programs. Industry representatives and State and local agency representatives have indicated that pretreatment is the preferred means of HAP emissions control for POTW. The use of pretreatment processes to control HAP emissions from POTW would control HAP emissions from wastewater collection systems, in addition to HAP emissions from POTW treatment plants. Further, additional information on pretreatment practices by industry may also give some insight concerning future HAP emissions from POTW.

The EPA is soliciting quantitative data on the effectiveness of pretreatment program implementation in reducing overall HAP loading to POTW (including wastewater collection systems); the effectiveness of pretreatment in reducing emissions of HAP from POTW (including wastewater collection systems); the cost of implementing and operating an effective pretreatment program; observed trends in industrial HAP discharges via wastewater; and any other information relevant in the assessment of POTW

HAP emissions as they are affected by pretreatment programs.

##### *B. Wastewater Collection Systems*

Wastewater collection systems have been identified as significant sources of HAP emissions from certain POTW. However, little information is currently available to the EPA regarding these systems.

The EPA is soliciting quantitative data on the design and operation of wastewater collection systems, and scientifically supported data on the measurement or estimation of emissions from wastewater collection systems; information on industry trends to reduce or eliminate HAP emissions; and any other information relevant to the assessment of POTW collection system HAP emissions.

#### **VI. Administrative Requirements**

##### *A. Docket*

The docket number for this action is A-96-46. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials) [section 307(d)(7)(A) of the Act]. This docket contains copies of the supporting information considered by the EPA in the development of this proposal. The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the ADDRESSES section of this proposal.

##### *B. Paperwork Reduction Act*

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1891.01) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>.

Generally, respondents are required to submit one-time reports of (1) start of construction for new facilities and (2) anticipated and actual start-up dates for new facilities. For sources constructed or reconstructed after the effective date



of the relevant standard, the regulation requires that the source submit an application for approval of construction or reconstruction. The application is required to contain information on the air pollution control that will be used for each potential HAP emission point.

For POTW facilities, the public reporting and recordkeeping burden is estimated to average 41 hours per respondent per year. This estimate includes time for preparing and submitting notices, preparing and submitting demonstrations and applications, reporting releases, gathering information, and preparing and submitting reports. No capital costs are anticipated.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 1, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by December 31, 1998. The

final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

#### C. Executive Order 12866

Under Executive Order 12866 [58 FR 5173 (October 4, 1993)], the EPA must determine whether this regulatory action would be "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The criteria set forth in section one of the Executive Order for determining whether a regulation is a significant rule are as follows: (1) It is likely to have an annual effect on the economy of \$100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal government communities; (2) it is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) it is likely to materially alter the budgetary impact of entitlements, grants, user fees or loan programs, or the rights and obligations of recipients thereof; or (4) it is likely to raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The OMB has deemed this regulatory action significant and has requested review of this proposed rulemaking package. Therefore, the EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

#### D. Regulatory Flexibility Act

The EPA's findings in this section are the result of the statutory requirements of the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act.

This proposed rule would impose no new requirements on existing industrial or non-industrial POTW treatment plants or new industrial POTW treatment plants. The EPA is uncertain whether any new non-industrial POTW treatment plants would be of sufficient size to be subject to this rule, but the number of affected sources would be very small in any case. Therefore, the EPA finds that this proposed rule would not have a significant impact on a substantial number of small entities. As such, neither a formal Initial Regulatory Flexibility Analysis nor a detailed small business analysis is necessary. Therefore, I certify that this action will not have a significant economic impact

on a substantial number of small entities.

#### E. Unfunded Mandates

Pursuant to sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, the EPA has determined that the action proposed today would not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

#### F. Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that the EPA determines: (1) "economically significant" as defined under Executive Order 12866; and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonable feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

#### G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Pub. L. No. 104-113, § 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking includes technical standards and requirements for taking measurements. Consequently, the EPA searched for applicable voluntary consensus standards by

searching the National Standards System Institute (NSSN) database. The NSSN is an automated service provided by the American National Standards Institute for identifying available national and international standards.

The EPA searched for methods and tests required by this proposed rule, all of which are methods or tests previously promulgated. The proposed rule includes methods that measure: (1) vapor leak detection (EPA Method 21); (2) volatile organic compound concentration in vented gas stream (EPA Method 18); (3) volumetric flow rate of the vented gas stream (EPA Methods 2, 2A, 2C, or 2D); and (4) sampling site location (Method 1 or 1A). These EPA methods are found in Appendix A to parts 60, 63, and 136.

Except for EPA Methods 2 and 2C (Appendix A to part 60), no other potentially equivalent methods for the methods and tests in the proposal were found in the NSSN database search. The EPA identified one Chinese (Taiwanese) National Standard (CNS) which may potentially be an equivalent method to EPA Methods 2 and 2C. The CNS method is CNS K9019 for measuring velocity and flow rates in stack gases.

However, the EPA does not believe that CNS K9019 is a voluntary consensus method. It is unlikely that CNS K9019 was considered by industry groups or national standards setting organizations because it was not developed in the U.S. and there is no available information about it in the U.S.

To confirm EPA's belief, the EPA is asking for comment on whether any U.S. industry has adopted CNS K9019 as a voluntary consensus method. The EPA is also asking for comment on whether any potential voluntary consensus methods exist that could be allowed in addition to the methods in the proposal. Methods submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, Appendix A was used).

#### *H. Executive Order 12875: Enhancing the Intergovernmental Partnership*

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If the EPA complies by consulting,

Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of the EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

The EPA has concluded that this rule may create a mandate on local governments and that the Federal government will not provide the funds necessary to pay the direct costs incurred by local governments in complying with the mandate. Today's rule does not create a mandate on State or tribal governments, or impose any enforceable duties on these entities. State, local, and tribal governments will have the responsibility to carry out this rule by incorporating it into permits and enforcing it, as delegated. They will collect permit fees that pay for the costs of applying the rule.

In developing this rule, the EPA consulted with these governments to enable them to provide meaningful and timely input in the development of this rule. As discussed in section I.D., consultation opportunities included presumptive MACT partnerships, stakeholder meetings, and participation on the internal working group that prepared the proposed standards. State and local regulatory agencies are expected to be in favor of this proposal. Some representatives of local governments have expressed concerns about the emission models and testing used to determine area source status. The EPA will continue to work with them to resolve their concerns.

Under this proposed rule, new air pollution control requirements are imposed only on new non-industrial POTW treatment plants. Representatives of local governments have told the EPA that a new non-industrial major POTW treatment plant is not likely to be built within the next five years. Should such a facility be built, it would likely recover any costs of air pollution controls through increased user fees applied to the industries responsible for the discharge of hazardous air pollutants to the sewer system. Under any scenario, the EPA believes that the health and environmental benefits of this proposed rule outweigh any

potential costs to local government entities.

#### *I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Today's rule would impose no new requirements on existing industrial or non-industrial POTW treatment plants or new industrial POTW treatment plants. The EPA is uncertain whether any new non-industrial POTW treatment plants would be of sufficient size to be subject to this rule, but the number of affected sources would be very small in any case and would not be located in the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

#### **List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Hazardous substances, Pretreatment, Publicly owned treatment works, Reporting and recordkeeping requirements.

Dated: November 12, 1998.

**Carol M. Browner,**  
Administrator.

Chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

**Authority:** Secs. 101, 112, 114, 116, and 301 of the Clean Air Act (42 U.S.C. 7401, *et seq.*, as amended by Pub. L. 101-549, 104 Stat. 2399).

2. Part 63 is amended by adding subpart VVV to read as follows:

### Subpart VVV—National Emission Standards for Hazardous Air Pollutants From Publicly Owned Treatment Works

#### Applicability

Sec.

63.1580 Am I subject to this subpart?

63.1581 How will the EPA determine if I am in compliance with this subpart?

63.1582 Does the regulation distinguish between different types of POTW treatment plants?

#### Industrial POTW Treatment Plant Description and Requirements

63.1583 What are the characteristics of an industrial POTW treatment plant?

63.1584 What are the emission points and control requirements for an industrial POTW treatment plant?

63.1585 When do I have to comply?

63.1586 How does an industrial POTW treatment plant demonstrate compliance?

#### Non-industrial POTW Treatment Plants Requirements

63.1587 What are the emission points and control requirements for a non-industrial POTW treatment plant?

63.1588 When do I have to comply?

63.1589 What inspections must I conduct?

63.1590 What records must I keep?

63.1591 What reports must I submit?

#### General Requirements

63.1592 What are my notification requirements?

63.1593 Which General Provisions apply to my POTW treatment plant?

63.1594 Who enforces this subpart?

#### Additional Information

63.1595 How do I determine if my POTW treatment plant is a major source of HAP emissions?

63.1596 Are there any other ways for me to control HAP emissions from my POTW treatment plant?

63.1597 List of definitions.

Table 1 to subpart VVV—List of Hazardous Air Pollutants of Concern for Subpart VVV

Table 2 to subpart VVV—Applicability of 40 CFR part 63 General Provisions to Subpart VVV

## Subpart VVV—National Emission Standards for Hazardous Air Pollutants From Publicly Owned Treatment Works

### Applicability

#### § 63.1580 Am I subject to this subpart?

(a) You are subject to this subpart if:

(1) You own or operate a new or existing publicly owned treatment works (POTW); and

(2) Your POTW treatment plant is a major source of HAP emissions. Major source means that stationary sources at your POTW treatment plant emit or have the potential to emit a single hazardous air pollutant (HAP) of concern (see Table 1. List of Hazardous Air Pollutants of Concern for Subpart VVV, of this subpart) at a rate of 10 tons or more per year or any combination of HAP of concern at a rate of 25 or more tons per year; or

(3) Your POTW treatment plant is an area source that increases its emissions of (or its potential to emit) HAP such that it is a major source of HAP emissions.

**Note 1 to paragraph (a) of this section:** Section 63.1595 presents the procedures for determining if a POTW treatment plant is a major source of HAP emissions. Though this subpart addresses only wastewater emissions, the determination should consider emissions from all stationary sources at the facility, including sewage sludge incinerators, stationary internal combustion engines, boilers, and turbines.

**Note 2 to paragraph (a) of this section:** To determine if your POTW treatment plant is a major source due solely to wastewater emissions, you need to understand industrial loadings of HAP into your sewer system. Publicly owned treatment works treatment plants which treat mostly high-strength industrial wastewater can be major sources with a daily flow rate as low as 4 million gallons per day (MGD). Publicly owned treatment works treatment plants with low concentrations of HAP in their influent may not be major sources (due to wastewater emissions) even with a flow rate of 300 MGD.

(b) If your POTW treatment plant is not a major source then you are not subject to this subpart, and as such:

(1) You do not have to notify the Administrator that you are an area source.

(2) You do not have to apply for a title V permit under 40 CFR Part 70. However, your State has the option to require you to apply for such a permit.

**Note to paragraph (b) of this section:** Although you are not required to maintain any records of your determination that you are not a major source, if your POTW treatment plant is unique (e.g., you are very close to the 25/10 tpy criteria defining a major source, your influent waste stream contains a high percentage of industrial waste, you have a fairly high average annual

flow rate) it may be to your advantage to maintain such a record in case the EPA or your State authority requests proof of your major source determination.

#### § 63.1581 How will the EPA determine if I am in compliance with this subpart?

(a) If you fail to comply with any or all of the provisions of this subpart, you will be considered in violation of this regulation. For example, failure to perform any or all of the following, specified in § 63.1589 of this subpart, would be a violation: failure to visually inspect the cover on your treatment unit; failure to repair a defect on a treatment unit in use within the specified time period; or failure to report a delay in repair.

(b) The Administrator will determine compliance with this subpart by reviewing your records or inspecting your POTW treatment plant.

(c) Your POTW treatment plant may be exempted from compliance with this regulation if the President determines that it is in the national security interests of the United States to do so. This exemption may last for up to two years at a time, and may be extended for additional periods of up to two years each.

#### § 63.1582 Does the subpart distinguish between different types of POTW treatment plants?

Yes, the subpart divides all POTW treatment plants into two subcategories. A POTW treatment plant which does not meet the characteristics of an industrial POTW treatment plant belongs in the non-industrial POTW treatment plant subcategory. These terms are defined in § 63.1597 List of Definitions, of this subpart.

#### Industrial POTW Treatment Plant Description and Requirements

##### § 63.1583 What are the characteristics of an industrial POTW treatment plant?

(a) Your POTW treatment plant is an industrial POTW treatment plant if wastewater treatment at your POTW treatment plant enables an industrial user to comply with the treatment requirements of its own national emission standards for hazardous air pollutants (NESHAP). Industrial POTW treatment plant is defined in § 63.1597 of this subpart.

(b) If, in the future, you begin accepting a specific industrial waste stream for treatment at your POTW treatment plant to enable an industrial user to comply with the treatment requirements of another NESHAP(s), then your POTW treatment plant will be considered an industrial POTW treatment plant.

(c) If your POTW treatment plant accepts one or more specific regulated industrial waste streams as part of compliance with one or more other NESHAPs then you are subject to all the requirements of each appropriate NESHAP for each waste stream, as described in the following section. In the case of conflicting NESHAP requirements, the more stringent of the requirements will apply.

**§ 63.1584 What are the emission points and control requirements for an industrial POTW treatment plant?**

(a) The emission points and control requirements for an existing industrial POTW treatment plant are specified in the appropriate NESHAP(s) for the industrial user(s) (see above). For example, an existing industrial POTW treatment plant which provides treatment for a facility subject to subpart FF of this part, the National Emission Standard for Benzene Waste Operations, must meet the treatment and control requirements specified in § 61.348(d)(4).

(b) The emission points and control requirements for a new or reconstructed industrial POTW treatment plant that is a major source of HAP emissions are also specified in the appropriate NESHAP(s) for the industrial user(s), or in § 63.1587, whichever is more stringent. Reconstruction is defined in § 63.1597 of this subpart.

**§ 63.1585 When do I have to comply?**

(a) *Existing industrial POTW treatment plant.* If you have an existing industrial POTW treatment plant, the appropriate NESHAP(s) for the industrial user(s) will set your compliance date(s). For example, an industrial POTW treatment plant providing treatment for chemical plants regulated by the Hazardous Organic NESHAP will have to comply by April 22, 1999.

(b) *New industrial POTW treatment plant.* If you have a new industrial POTW treatment plant, you must be in compliance as soon as you begin accepting the waste stream(s) for treatment. If, in the future, you begin accepting a specific regulated industrial waste stream(s) for treatment, you must be in compliance by the time specified in the appropriate NESHAP(s) for the industrial user(s).

**§ 63.1586 How does an industrial POTW treatment plant demonstrate compliance?**

(a) An existing industrial POTW treatment plant demonstrates compliance by operating treatment and control devices which meet all requirements specified in the appropriate industrial NESHAP(s). Requirements may include performance

tests, routine monitoring, recordkeeping, and reporting.

(b) A new or reconstructed industrial POTW treatment plant that installs controls required by the appropriate industrial NESHAP(s), demonstrates compliance by operating treatment and control devices which meet all requirements specified in the appropriate industrial NESHAP(s). A new or reconstructed industrial POTW treatment plant that installs controls specified by § 63.1587, demonstrates compliance by meeting all requirements in §§ 63.1588 through 63.1592.

**Non-industrial POTW Treatment Plant Requirements**

**§ 63.1587 What are the emission points and control requirements for a non-industrial POTW treatment plant?**

There are no control requirements for an existing non-industrial POTW treatment plant. The control requirements for a new or reconstructed non-industrial POTW treatment plant that is a major source of HAP emissions are covers on the emission points up to, but not including the secondary influent pumping station. These emission points are treatment units that include, but are not limited to, influent waste stream conveyance channels, bar screens, grit chambers, grinders, pump stations, aerated feeder channels, primary clarifiers, primary effluent channels, and primary screening stations. In addition, all covered units, except primary clarifiers, must have the air in the headspace ducted to a control device in accordance with § 63.693, the standards for closed-vent systems and control devices in subpart DD. Reconstructed is defined in § 63.1597 of this subpart.

(a) Covers must be tightly fitted and designed and operated to minimize exposure of the waste to the atmosphere. This includes, but is not limited to, the absence of visible cracks, holes, or gaps in the roof sections or between the roof and the separator wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(b) If waste is in a treatment unit, each opening must be maintained in a closed, sealed position, unless plant personnel are present and conducting waste sampling or removal, or equipment inspection, maintenance, or repair.

(c) If a treatment unit is not equipped with a closed-vent system and control device, it must be designed to operate with minimal ventilation (e.g., at or near zero) of the airspace under the cover to reduce both air emissions and energy consumption.

(d) You must operate and maintain your POTW treatment plant at all times to minimize HAP emissions.

**§ 63.1588 When do I have to comply?**

If your POTW treatment plant began construction on or after December 1, 1998, and your POTW treatment plant is a major source of HAP emissions, you must comply with all provisions of this subpart either immediately upon startup, or by the date of promulgation of this subpart, whichever date is later.

**§ 63.1589 What inspections must I conduct?**

If your treatment units are required to have covers, you must conduct the following inspections:

(a) You must visually check the cover and its closure devices for defects that could result in air emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the separator wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(b) You must perform an initial inspection at start-up with follow-up inspections at least once per year.

(c) In the event that you find a defect on a treatment unit in use, you must repair the defect within 45 days. If you cannot repair within 45 days, you must notify the EPA or the designated State authority and report the reason for the delay and the date you expect to complete the repair. If you find a defect on a treatment unit not being used, you must repair the defect before using the treatment unit.

(d) If you own or operate a control device used to meet the requirements for § 63.1587, you must comply with the inspection and monitoring requirements of § 63.695(c).

**§ 63.1590 What records must I keep?**

(a) You must prepare and maintain the following records:

(1) A record for each treatment unit inspection required by § 63.1589(b) of this subpart. You must include the following information: a treatment unit identification number (or other unique identification description as selected by you) and the date of inspection.

(2) For each defect detected during inspections required by § 63.1589(b) of this subpart, you must record the following information: the location of the defect, a description of the defect, the date of detection, the corrective action taken to repair the defect, and the date the repair to correct the defect is completed.

(3) In the event that repair of the defect is delayed, in accordance with the provisions of § 63.1589(c) of this subpart, you must also record the reason for the delay and the date you expect to complete the repair.

(4) If you own or operate a control device used to meet the requirements for § 63.1587, you must comply with the recordkeeping requirements of § 63.696 (a), (b), (g), and (h).

(b) [Reserved]

**§ 63.1591 What reports must I submit?**

(a)(1) You must submit to the Administrator a notification of compliance status, signed by the responsible official who must certify its accuracy, attesting to whether your POTW treatment plant has complied with this regulation. This notification must be submitted before a title V permit is issued to you, and each time a notification of compliance status is required under this subpart. The notification must list—

(i) The methods that were used to determine compliance;

(ii) The results of any monitoring procedures or methods that were conducted;

(iii) The methods that will be used for determining continuing compliance;

(iv) The type and quantity of HAP emitted by your POTW treatment plant;

(v) A description of the air pollution control equipment (or method) for each emission point; and

(vi) Your statement that your POTW treatment plant has complied with this regulation.

(2) You must send this notification before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in this regulation.

(b) After you have been issued a title V permit, you must comply with all requirements for compliance status reports contained in your title V permit, including reports required under this subpart. After you have been issued a title V permit, and each time a notification of compliance status is required under this subpart, you must submit the notification of compliance status to the appropriate permitting authority, as described in § 63.1591(d) of this subpart, following completion of the relevant compliance demonstration activity specified in this regulation.

(c) You must comply with the delay of repair reporting required in § 63.1589(c).

(d) If your State has not been delegated authority you must submit reports to your Regional Office of the EPA. If your State has been delegated authority you must submit reports to

your delegated State authority and you must send a copy of each report submitted to the State to your Regional Office of the EPA. Your Regional Office may waive this requirement for any reports at its discretion.

(e) You may apply to the Administrator for a waiver of recordkeeping and reporting requirements if you believe your source is already in compliance with this standard. This application must accompany the compliance status report required under § 63.1592 of this subpart, or your title V permit. The application must include whatever information you consider useful to convince the Administrator that a waiver of recordkeeping and reporting is warranted.

(f) If you own or operate a control device used to meet the requirements for § 63.1587, you must submit the reports required by § 63.697(b), including a notification of performance tests, a performance test report, a startup, shutdown, and malfunction report, and a summary report.

**General Requirements**

**§ 63.1592 What are my notification requirements?**

(a) If your State has not been delegated authority you must submit notifications to the appropriate Regional Office of the EPA. If your State has been delegated authority you must submit notifications to your State and a copy of each notification to the appropriate Regional Office of the EPA. The Regional Office may waive this requirement for any notifications at its discretion.

(b) You must notify the Administrator in writing when your POTW treatment plant becomes subject to this standard. The notification, which must be submitted not later than 120 calendar days after the effective date of this standard (or within 120 calendar days after your POTW treatment plant becomes subject to the relevant standard), must provide the following information:

(1) Your name and address;

(2) The address (i.e., physical location) of your POTW treatment plant;

(3) An identification of this standard as the basis of the notification and your POTW treatment plant's compliance date; and

(4) A brief description of the nature, size, design, and method of operation of your POTW treatment plant, including its operating design capacity and an identification of each point of emission for each HAP, or if a definitive identification is not yet possible, a

preliminary identification of each point of emission for each HAP.

**§ 63.1593 Which General Provisions apply to my POTW treatment plant?**

The General Provisions (40 CFR Part 63, subpart A) are NESHAP that apply to owners and operators of major sources of HAP emissions in all the source categories, including the POTW source category. Table 2 of this subpart lists the General Provisions which apply to POTW treatment plants.

**§ 63.1594 Who enforces this subpart?**

If the Administrator has delegated authority to your State, then the State enforces this subpart. If the Administrator has not delegated authority to your State, then the EPA Regional Office enforces this subpart.

**§ 63.1595 How do I determine if my POTW treatment plant is a major source of HAP emissions?**

(a)(1) If your POTW treatment plant is co-located with another major source of HAP emissions (e.g., a sewage sludge incinerator) then your POTW treatment plant is subject to this subpart.

(2) If your POTW treatment plant has total emissions (or potential emissions) of less than 10 tpy of any single HAP compound, or less than 25 tpy of any combination of HAP compounds, and it is co-located with one or more additional sources that also have total emissions (or potential emissions) of less than 10 tpy of any single HAP compound, or less than 25 tpy of any combination of HAP compounds, but together all sources have total emissions (or potential emissions) of 10 tpy or greater of any single HAP compound, or 25 tpy or greater of any combination of HAP compounds, then your POTW treatment plant and the other source are subject to this subpart.

(b) If your POTW treatment plant has total emissions (or potential emissions) of 10 tpy or greater of any single HAP compound, or 25 tpy or greater of any combination of HAP compounds, then your POTW treatment plant is a major source of HAP emissions. You may use the following methods, as a tiered approach, to determine if your POTW treatment plant meets or exceeds these emission limitations.

(1) If your POTW treatment plant's annual average wastewater throughput multiplied by the annual average HAP concentration of all HAP compounds present in the influent is 25 tpy or greater, or the annual average wastewater throughput multiplied by the annual average influent concentration of any single HAP compound in the influent is 10 tpy or

greater, then you are a major source of HAP emissions.

(2) You may use the emission factors provided in Table 1 of this subpart, to conservatively estimate emissions from your POTW treatment plant. Multiply your POTW treatment plant's annual average wastewater throughput by the annual average HAP concentration of each HAP compound in the influent by the compound-specific fraction emitted ( $f_c$ ) value to calculate estimated emissions of each HAP compound from your POTW treatment plant. If the estimated emissions are 10 tpy or greater of any single HAP compound, or 25 tpy or greater of any combination of HAP compounds, then your POTW treatment plant is a major source of HAP emissions.

(3) You may utilize an approved fate model to determine emissions from your POTW treatment plant. The EPA has approved the fate model entitled Wastewater Treatment Compound Property Processor and Air Emissions Estimator, commonly known as WATER8, for determination of emissions from wastewater treatment processes. If the results of applying WATER8 to your POTW treatment plant indicate that your emissions are 10 tpy or greater of any single HAP as compound, or 25 tpy or greater of any combination of HAP compounds, then your POTW treatment plant is a major source of HAP emissions. In the event that your POTW treatment plant's emissions have already been determined using another fate model, you may be able to use the results from that modeling effort as an initial screening tool to determine if your POTW treatment plant is a major source of HAP emissions. However, if there is any ambiguity concerning your POTW treatment plant's status as a major source of HAP emissions, the EPA will rely exclusively on the use of emissions estimates generated using WATER8.

(c) If you use your average influent wastewater HAP concentration and flow to determine if you are a major source, you may determine the HAP concentration of your influent waste stream using either direct measurement or knowledge of your waste stream. Your average annual wastewater flow must be determined as specified in your NPDES permit.

(1) To use direct measurement to determine your influent HAP concentration, you must collect samples of your influent waste stream that represent the complete range of HAP compositions and quantities that occur in your waste stream during the entire averaging period. You must collect each sample in accordance with the

requirements specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, and insure that minimum loss of organics throughout the sample collection and handling process occurs and that sample integrity is maintained. You must prepare and analyze each collected sample in accordance with the requirements of Method 305 in 40 CFR part 63, appendix A or Method 25D in 40 CFR part 60, appendix A.

(2) To use your knowledge of the waste stream to determine the average HAP concentration you must prepare and record sufficient information that documents the basis for that knowledge. Examples of information that may be used as the basis for knowledge of the waste stream include: samples analyzed using test methods other than Method 305 or Method 25, such as EPA Methods 600 and 8000; industrial pretreatment/source control permit information, including compliance sampling and analysis; species-specific HAP chemical test data for the waste stream from previous testing still applicable to the current operations; or other previous test data.

(i) If you use test data as the basis for knowledge of the waste stream, then you must document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the HAP concentration. For example, you may use HAP concentration test data that are validated in accordance with Method 301 in appendix A of 40 CFR part 63 as the basis for knowledge of the waste stream.

(ii) If you use species-specific HAP chemical concentration test data as the basis for knowledge of the waste stream you must adjust the test data results to the corresponding total HAP concentration value that would be reported had the samples been analyzed using Method 305 in the appendix to 40 CFR part 63, subpart G.

(d) If you make any changes or modifications to your POTW treatment plant that could cause your HAP emissions (or potential HAP emissions) to increase you must consider those changes or modifications when determining if your POTW treatment plant is a major source. Such changes may include, but are not limited to:

(1) If at any time you add new equipment to your POTW treatment plant or implement a process change, the added equipment or process change is considered an integral part of your POTW treatment plant and must be

considered when determining if your POTW treatment plant is a major source;

(2) If you expand your existing POTW treatment plant by adding a new treatment line within a contiguous area and under common control, the new treatment line is considered an integral part of your existing POTW treatment plant and must be considered when determining if your POTW treatment plant is a major source; or

(3) If you reconstruct your POTW treatment plant (as defined in § 63.1597 List of Definitions, of this regulation) then you must comply with the requirements for a new or reconstructed POTW treatment plant in this subpart.

**§ 63.1596 Are there any other ways for me to control HAP emissions from my POTW treatment plant?**

(a) You may request permission to use an alternative means of emission limitation to control HAP emissions from your plant. You must collect, verify, and submit to the Administrator information demonstrating that the alternative achieves emission reductions which are at least equivalent to the reductions which would be achieved under this subpart.

(b) If it appears that the alternative means of HAP emission limitation will achieve a reduction in HAP emissions at least equivalent to the reduction in HAP emissions from your source achieved under this regulation, the Administrator will propose to amend this subpart to permit you to use the alternative means for purposes of compliance with this subpart. Such an amendment may include specific requirements for operation and maintenance as a condition of the permission. Any amendment to permit you to use an alternative means of emission limitation will be adopted only after notice and an opportunity for comment.

**§ 63.1597 List of definitions.**

*Affected Source* means a stationary POTW treatment plant that is regulated by this standard.

*Area Source* means any stationary source of HAP that is not a major source.

*Cover* means a device that prevents or reduces air pollutant emissions to the atmosphere by forming a continuous barrier over the waste material managed in a treatment unit. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the treatment unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the treatment unit or

a cover may be formed by structural features permanently integrated into the design of the treatment unit. The cover and its closure devices must be made of suitable materials that will minimize exposure of the waste material to the atmosphere, to the extent practical, and will maintain the integrity of the equipment throughout its intended service life.

*HAP* means hazardous air pollutant.

*Industrial User* means a non-domestic source introducing any pollutant or combination of pollutants into a POTW. Industrial users can be commercial or industrial facilities whose wastes enter local sewers.

*Industrial POTW Treatment Plant* means a POTW treatment plant that accepts one or more specific regulated industrial waste streams for treatment that enables an industrial user to comply with the treatment requirements of its own NESHAP. For example, an industry discharges its benzene-containing waste to the POTW treatment plant for treatment to comply with 40 CFR part 61, subpart FF, the National Emission Standard for Benzene Waste Operations. This definition does not include POTW treatment plants that accept industrial waste for treatment from an industrial user whose waste is not specifically regulated under another NESHAP. Examples include POTW treatment plants that accept waste from industries, such as local manufacturing facilities, typically characterized as a significant industrial user by the POTW treatment plant in the POTW's approved pretreatment program.

*Non-industrial POTW Treatment Plant* means a POTW treatment plant as defined by this § 63.1597 of this subpart that does not meet the definition of an industrial POTW treatment plant as defined by this § 63.1597 of this subpart.

*Publicly Owned Treatment Works (POTW)* means a treatment works as defined by section 112(e)(5) of the Clean Air Act, which is owned by a State or municipality (as defined by section 502(4) of the Clean Water Act). This definition includes any intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment. The wastewater treated by these facilities are generated by industrial, commercial, and domestic sources.

*POTW Treatment Plant* means a treatment works as defined by section 112(e)(5) of the Clean Air Act, which is owned by a State or municipality (as defined by section 502(4) of the Clean Water Act), with the exception that this definition includes ONLY the facilities, units, and processes used to treat municipal wastewater from the time it is discharged from the collection system to begin treatment until treatment is completed. This definition DOES NOT include any sewage collection and conveyance systems, intercepting sewers, or outfall sewers.

*Reconstruction* means the replacement of components of an affected or a previously unaffected stationary source such that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator (or a State) pursuant to section 112 of the Act. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including

compliance dates, irrespective of any change in emissions of HAP from that source.

*Treatment Works or Treatment Unit(s)* means any devices and systems located at a POTW treatment plant that is used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land used for storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment. In addition, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste.

*Waste and Wastewater* means a material, or spent or used water or waste, generated from residential, industrial, commercial, mining, or agricultural operations or from community activities that contains dissolved or suspended matter, and that is discarded, discharged, or is being accumulated, stored, or physically, chemically, thermally, or biologically treated in a publicly owned treatment works.

*You (including other possessive pronouns such as I, my, our, your)* means an owner or operator of a POTW treatment plant.

TABLE 1 TO SUBPART VVV.—LIST OF HAZARDOUS AIR POLLUTANTS OF CONCERN FOR SUPART VVV

CAS No.	Chemical name	Fraction emitted(f <sub>e</sub> )
75070	Acetaldehyde	0.2099
75058	Acetonitrile	0.0878
107028	Acrolein	0.1328
107131	Acrylonitrile	0.1130
107051	Allyl chloride	0.9552
71432	Benzene (including benzene from gasoline)	0.7729
100447	Benzyl chloride	0.1873
92524	Biphenyl	0.0999
75252	Bromoform	0.2300
106990	1,3-Butadiene	0.9924
75150	Carbon disulfide	0.9643
56235	Carbon tetrachloride	0.9628
43581	Carbonyl sulfide	0.3401
108907	Chlorobenzene	0.3386
67663	Chloroform	0.7485
126998	Chloroprene	0.6644
98828	Cumene	0.8481
3547044	DDE	0.1128

TABLE 1 TO SUBPART VVV.—LIST OF HAZARDOUS AIR POLLUTANTS OF CONCERN FOR SUPART VVV—Continued

CAS No.	Chemical name	Fraction emitted(f <sub>c</sub> )
334883	Diazomethane	0.0739
132649	Dibenzofurans	0.2125
106467	1,4-Dichlorobenzene(p)	0.5492
542756	1,3-Dichloropropene	0.7174
119904	3,3'-Dimethoxybenzidine	0.4736
121697	N,N-Dimethylaniline	0.0885
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	0.0966
106887	1,2-Epoxybutane	0.4049
140885	Ethyl acrylate	0.2299
100414	Ethyl benzene	0.7986
75003	Ethyl chloride (Chloroethane)	0.9633
106934	Ethylene dibromide (Dibromoethane)	0.3134
107062	Ethylene dichloride (1,2-Dichloroethane)	0.4363
151564	Ethylene imine (Aziridine)	0.6887
75218	Ethylene oxide	0.1944
75343	Ethylidene dichloride (1,1-Dichloroethane)	0.7142
0	Glycol ethers <sup>a</sup>	0.0591
76448	Heptachlor	0.2064
118741	Hexachlorobenzene	0.1340
87683	Hexachlorobutadiene	0.7761
77474	Hexachlorocyclopentadiene	0.6313
67721	Hexachloroethane	0.7643
110543	Hexane	0.9998
74839	Methyl bromide (Bromomethane)	0.9165
74873	Methyl chloride (Chloromethane)	0.9125
71556	Methyl chloroform (1,1,1-Trichloroethane)	0.3848
78933	Methyl ethyl ketone (2-Butanone)	0.2357
74884	Methyl iodide (Iodomethane)	0.6365
108101	Methyl isobutyl ketone (Hexone)	0.3142
80626	Methyl methacrylate	0.0679
1634044	Methyl tert butyl ether	0.3498
75092	Methylene chloride (Dichloromethane)	0.7593
91203	Naphthalene	0.2248
79469	2-Nitropropane	0.1561
75445	Phosgene	0.9739
1336363	Polychlorinated biphenyls <sup>b</sup> (Aroclors)	0.0241
123386	Propionaldehyde	0.1235
78875	Propylene dichloride (1,2-Dichloropropane)	0.5914
75569	Propylene oxide	0.5101
100425	Styrene	0.8462
96093	Styrene oxide	0.0718
79345	1,1,1,2-Tetrachloroethane	0.1870
127184	Tetrachloroethylene (Perchloroethylene)	0.9693
108883	Toluene	0.7382
8001352	Toxaphene (chlorinated camphene)	0.6473
120821	1,2,4-Trichlorobenzene	0.3248
79005	1,1,2-Trichloroethane	0.3848
79016	Trichloroethylene	0.9197
121448	Triethylamine	0.1025
540841	2,2,4-Trimethylpentane	0.9999
108054	Vinyl acetate	0.4541
593602	Vinyl Bromide	0.9149
75014	Vinyl chloride	0.9958
75354	Vinylidene chloride (1,1-Dichloroethylene)	0.9737
1330207	Xylenes (isomers and mixture)	0.7241
95476	o-Xylenes	0.7085
108383	m-Xylenes	0.7787
106423	p-Xylenes	0.7856

## Key:

<sup>a</sup> Ethylene glycol dimethyl ether is the glycol ether of concern.<sup>b</sup> The following PCB's are of concern: PCB 1221, PCB 1232, PCB 1242, PCB 1248, and PCB 1254.

TABLE 2 TO SUBPART VVV.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV

General provisions reference	Applicable to subpart VVV	Comment
§ 63.1		APPLICABILITY.
§ 63.1(a)(1)	Yes	Terms defined in CAAA.
§ 63.1(a)(2)	Yes	General applicability explanation.



TABLE 2 TO SUBPART VVV.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV—Continued

General provisions reference	Applicable to subpart VVV	Comment
§ 63.1(a)(3) .....	Yes	Cannot diminish a stricter NESHAP.
§ 63.1(a)(4) .....	Yes	Not repetitive. Doesn't apply to 112(r).
§ 63.1(a)(5) .....	No	Section reserved.
§ 63.1(a)(6)–(8) .....	Yes	Contacts and authorities.
§ 63.1(a)(9) .....	No	Section reserved.
§ 63.1(a)(10) .....	Yes	Time period definition.
§ 63.1(a)(11) .....	Yes	Postmark explanation
§ 63.1(a)(12)–(14) .....	Yes	Time period changes. Regulation conflict. Force and effect of subpart A.
§ 63.1(b)(1) .....	Yes	Initial applicability determination of subpart A.
§ 63.1(b)(2) .....	Yes	Operating permits by States.
§ 63.1(b)(3) .....	No	Subpart VVV specifies recordkeeping of records of applicability determination.
§ 63.1(c)(1) .....	Yes	Requires compliance with both subpart A and subpart VVV.
§ 63.1(c)(2)(i) .....	Yes	State options regarding Title V permit.
§ 63.1(c)(2) (ii)–(iii) .....	No	State options regarding Title V permit.
§ 63.1(c)(3) .....	No	Section reserved.
§ 63.1(c)(4) .....	Yes	Extension of compliance.
§ 63.1(c)(5) .....	No	Subpart VVV addresses area sources becoming major due to increase in emissions.
§ 63.1(d) .....	No	Section reserved.
§ 63.1(e) .....	Yes	Title V permit before a relevant standard is established.
§ 63.2 .....	Yes	DEFINITIONS.
§ 63.3 .....	Yes	UNITS AND ABBREVIATIONS.
§ 63.4 .....		PROHIBITED ACTIVITIES AND CIRCUMVENTION.
§ 63.4(a)(1)–(3) .....	Yes	Prohibits operation in violation of subpart A.
§ 63.4(a)(4) .....	No	Section reserved.
§ 63.4(a)(5) .....	Yes	Compliance dates.
§ 63.4(b) .....	No	Circumvention discussion not applicable to Subpart VVV.
§ 63.4(c) .....	Yes	Severability.
§ 63.5 .....		CONSTRUCTION AND RECONSTRUCTION.
§ 63.5(a)(1) .....	Yes	Construction and reconstruction.
§ 63.5(a)(2) .....	Yes	New source—effective dates.
§ 63.5(b)(1) .....	Yes	New sources subject to relevant standards.
§ 63.5(b)(2) .....	No	Section reserved.
§ 63.5(b)(3) .....	Yes	No new major sources w/out Administrator approval.
§ 63.5(b)(4) .....	Yes	New major source notification.
§ 63.5(b)(5) .....	Yes	New major sources must comply.
§ 63.5(b)(6) .....	Yes	New equipment added considered part of major source.
§ 63.5(c) .....	No	Section reserved.
§ 63.5(d)(1) .....	Yes	Implementation of 112(l)(2)—application of approval of new source construction.
§ 63.5(d)(2) .....	Yes	Application for approval of construction for new sources listing and describing planned air pollution control system.
§ 63.5(d)(3) .....	Yes	Application for reconstruction.
§ 63.5(d)(4) .....	Yes	Administrator may request additional information.
§ 63.5(e) .....	Yes	Approval of reconstruction.
§ 63.5(f)(1) .....	Yes	Approval based on State review.
§ 63.5(f)(2) .....	Yes	Application deadline.
§ 63.6 .....		COMPLIANCE WITH STANDARDS AND MAINTENANCE REQUIREMENTS.
§ 63.6(a) .....	Yes	Applicability of compliance with standards and maintenance requirements.
§ 63.6(b) .....	Yes	Compliance dates for new and reconstructed sources.
§ 63.6(c) .....	Yes	Compliance dates for existing sources apply to existing industrial POTW treatment plants.
§ 63.6(d) .....	No	Section reserved.
§ 63.6(e) .....	Yes	Operation and maintenance requirements apply to new sources.
§ 63.6(f) .....	Yes	Compliance with nonopacity emission standards applies to new sources.
§ 63.6(g) .....	Yes	Use of alternative nonopacity emission standard applies to new sources.
§ 63.6(h) .....	No	POTW treatment plants do not typically have visible emissions.
§ 63.6(i) .....	Yes	Extension of compliance with emission standards applies to new sources.
§ 63.6(j) .....	No	Subpart VVV addresses the Presidential exemption from compliance with emission standards.
§ 63.7 .....		PERFORMANCE TESTING REQUIREMENTS.
§ 63.7(a) .....	Yes	Performance testing is required for new sources.
§ 63.7(b) .....	Yes	New sources must notify the Administrator of intention to conduct performance testing.
§ 63.7(c) .....	Yes	New sources must comply with quality assurance program requirements.
§ 63.7(d) .....	Yes	New sources must provide performance testing facilities at the request of the Administrator.
§ 63.7(e) .....	Yes	Requirements for conducting performance tests apply to new sources.
§ 63.7(f) .....	Yes	New sources may use an alternative test method.
§ 63.7(g) .....	Yes	Requirements for data analysis, recordkeeping, and reporting associated with performance testing apply to new sources.
§ 63.7(h) .....	Yes	New sources may request a waiver of performance tests.
§ 63.8 .....		MONITORING REQUIREMENTS.
§ 63.8(a) .....	Yes	Applicability of monitoring requirements.
§ 63.8(b) .....	Yes	Monitoring shall be conducted by new sources.
§ 63.8(c) .....	Yes	New sources shall operate and maintain continuous monitoring systems (CMS).
§ 63.8(d) .....	Yes	New sources must develop and implement a CMS quality control program.

TABLE 2 TO SUBPART VVV.—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV—Continued

General provisions reference	Applicable to subpart VVV	Comment
§ 63.8(e) .....	Yes	New sources may be required to conduct a performance evaluation of CMS.
§ 63.8(f) .....	Yes	New sources may use an alternative monitoring method.
§ 63.8(g) .....	Yes	Requirements for reduction of monitoring data.
§ 63.9 .....		NOTIFICATION REQUIREMENTS.
§ 63.9(a) .....	Yes	Applicability of notification requirements.
§ 63.9(b) .....	Yes	Initial notification requirements.
§ 63.9(c) .....	Yes	Request for extension of compliance with subpart VVV.
§ 63.9(d) .....	Yes	Notification that source is subject to special compliance requirements as specified in § 63.6(b)(3) and (4).
§ 63.9(e) .....	Yes	Notification of performance test.
§ 63.9(f) .....	No	POTW treatment plants do not typically have visible emissions.
§ 63.9(g) .....	Yes	Additional notification requirements for sources with continuous emission monitoring systems.
§ 63.9(h) .....	Yes	Notification of compliance status when the source becomes subject to subpart VVV.
§ 63.9(i) .....	Yes	Adjustments to time periods or postmark deadlines or submittal and review of required communications.
§ 63.9(j) .....	Yes	Change of information already provided to the Administrator.
§ 63.10 .....		RECORDKEEPING AND REPORTING REQUIREMENTS.
§ 63.10(a) .....	Yes	Applicability of notification and reporting requirements.
§ 63.10(b) .....	Yes	General recordkeeping requirements.
§ 63.10(c) .....	Yes	Additional recordkeeping requirements for sources with continuous monitoring systems.
§ 63.10(d) .....	Yes	General reporting requirements.
§ 63.10(e) .....	Yes	Additional reporting requirements for sources with continuous monitoring systems.
§ 63.10(f) .....	Yes	Waiver of recordkeeping and reporting requirements.
§ 63.11 .....		FLARES AS A CONTROL DEVICE.
§ 63.11(a) & (b) .....	Yes	If a new source uses flares to comply with the requirements of subpart VVV, the requirements of § 63.11 apply.
§ 63.12 .....	Yes	STATE AUTHORITY AND DESIGNATION.
§ 63.13 .....	Yes	ADDRESSES OF STATE AIR POLLUTION CONTROL AGENCIES AND EPA REGIONAL OFFICES.
§ 63.14 .....	Yes	INCORPORATION BY REFERENCE.
§ 63.15 .....	Yes	AVAILABILITY OF INFORMATION AND CONFIDENTIALITY.

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## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 264, 268, 269 and 271

[FRL-6195-4]

RIN 2050-AE22

### Requirements for Management of Hazardous Contaminated Media (HWIR-media)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of proposed rule.

SUMMARY: For the reasons set out in the HWIR-media final rule, officially titled "Hazardous Remediation Waste Management Requirements (HWIR-media)" published in the **Federal Register** of November 30, 1998, and the Phase IV LDR final rule, official titled "Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of

Recycled Wood Preserving Wastewaters; Final Rule" (63 FR 28556 (May 26, 1998)) this document withdraws all portions of the HWIR-media proposed rule (61 FR 18780 (April 29, 1996)) except those that were finalized in the above two final rules, or on which action was expressly deferred (i.e., the Treatability Sample Exclusion Rule, that EPA requested comments on expanding in the HWIR-media proposal at 61 FR 18817), in those documents.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F-98-MHWF-FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 or TDD (800)

553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412-3323.

For more detailed information on specific aspects of this rulemaking, contact Michael Fitzpatrick, Office of Solid Waste 5303W, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308-8411, fitzpatrick.mike@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The index and supporting materials are available on the Internet. Follow these instructions to access the information electronically:

WWW:<http://www.epa.gov/epaoswer/hazwaste/id/hwirmdia.htm>

As discussed in the HWIR-media final rule, officially titled "Hazardous Remediation Waste Management Requirements (HWIR-media)" published in the **Federal Register** of November 30, 1998, EPA decided to promulgate only selected elements of the HWIR-media proposal, rather than go forward with a more comprehensive approach as proposed.

Although EPA conducted a lengthy outreach process before developing the HWIR-media proposal and made every effort to balance the concerns and interests of various stakeholder groups, public comment on the proposal made it clear that stakeholders fundamentally