



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

The Honorable John D. Dingell  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20015-6115

MAR 30 2007

OFFICE OF  
AIR AND RADIATION

Dear Mr. Chairman:

Thank you again for your letter of February 23, 2007, requesting information and analyses concerning a proposed rule that would replace the Environmental Protection Agency's (EPA) policy commonly referred to as "Once In, Always In" (OIAI). As you may recall, our initial response on March 7, 2007, specifically focused on the points raised in the body of your letter. Due to the detailed nature of the questions in the attachment to your letter, EPA requested additional time to respond to those questions. Today, we are responding to the questions we did not address in our initial response, including providing supporting analyses where feasible and copies of the documents you requested.

As discussed in our previous letter, we are proposing to revise our OIAI policy which addresses timing issues for determining source classification (major vs. area) and the applicability of national emission standards for hazardous air pollutants (NESHAP) to major sources. At the time we established the OIAI policy in 1995, the air toxics program set out by the 1990 Clean Air Act amendments was just getting started and numerous questions remained regarding timing and the applicability of NESHAP. The policy represented a reasonable way of addressing those questions. After gaining over a decade of experience in implementing the air toxics program, we have concluded that it is appropriate to propose to rescind the OIAI policy. As previously stated in our March 7 response, we will carefully consider any relevant information and data that we receive during the public comment period.

We will also place the answers to your questions into the docket as you requested. If you have any further questions, please contact me, or your staff may call Josh Lewis, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "W L Wehrum".

William L. Wehrum  
Acting Assistant Administrator

**Questions for the Honorable Stephen L. Johnson  
Administrator, Environmental Protection Agency**

- 1. You state in the proposal that you cannot quantify “the environmental, economic or energy impacts of the proposed amendments . . . without knowing which sources will avail themselves of the regulatory provisions proposed in this rule . . .” You can, however, provide any useful quantitative information regarding the potential emissions impacts of this proposal. Please provide the following information (providing ranges where appropriate):**
  - a. What would be the maximum potential decrease in air toxic emissions if this proposal were finalized? In other words, if all sources that currently are allowed by MACT standards to emit less [sic] than the 10/25 ton threshold decided to decrease emissions to just below the threshold, how much would air toxic emissions decrease annually? In answering this question, please provide both the number of sources currently subject to a MACT standard that legally emit more than 10 tons of one air toxic or 25 tons of any combination of air toxics and how much more they emit.**
  - b. What would be the maximum potential increase in air toxic emissions if this proposal were finalized? In other words, if all sources that currently are required by MACT standards to emit less than the 10/25 ton threshold decided to increase their emissions to that threshold, how much would air toxic emissions increase annually? In answering this question, please provide both the number of sources currently subject to a MACT standard that legally emit less than 10 tons of one air toxic or 25 tons of any combination of air toxics and how much less they emit.**

Response:

The EPA believes it is important to note that maximum achievable control technology (MACT) standards are generally expressed in terms of percent reduction, mass emissions per mass production, concentration, e.g., parts per million, or other similar format. As a result, while compliance with a particular MACT standard may initially reduce HAP emissions to a particular level, that level can change over time. As long as the source remains in compliance with the applicable standard, emission levels can go up or down based on a variety of factors, including changes in production levels. Your question assumes that there is a particular fixed level of emissions that a source must achieve as a result of a particular MACT standard. That is not the case, as the MACT standards do not cap emissions at a fixed level. If a source does have a specific hazardous air pollutant emission limit it would have been set through a state-issued permit rather than through the federal MACT standard. We do not readily have access to data about such limits.

However, in response to 1.a and 1.b, we were able to develop a targeted analysis of the potential impact of sources that are subject to the MACT standard for the synthetic organic chemical manufacturing industry (SOCMI). The SOCMI has been regulated by MACT standards since 1994. Based on 1999 Nation Emission Inventory emissions and

subsequent verification of major sources, we have identified 228 major sources in this source category, 55 of which emit below the 10/25 major source thresholds. Over half of these 55 sources are located in ozone nonattainment areas and would be unable to increase volatile organic compound emissions (VOC) (almost all organic HAP are VOC) due to state implementation plan requirements. We estimate that the remaining sources, if all were able to increase emissions to the major source thresholds would increase HAP emissions by a maximum of 358 tpy. See Attachment 1.

Likewise, we looked at the potential of sources emitting 10/25 tpy or greater to reduce HAP emissions to attain area source levels. While it is unreasonable to assume that all sources emitting greater than the major source thresholds could reduce emissions to area source levels, we have analyzed several scenarios included in Attachment 1. For example, we estimate that 17 SOCOMI sources are within 50 percent greater (15/37.5 tpy) of the major source thresholds; if these sources reduce HAP to 10/25 tpy, the HAP decrease by 77 tpy. The 31 sources we estimate within 100 percent greater (20/50 tpy) of the major source thresholds could reduce HAP emissions by 300 tpy.

While this analysis provides a reasonable estimated range, it is, in fact, just a potential range. The actual impact would likely lie somewhere within the range identified. Finally, we cannot characterize the SOCOMI as representative of the nationwide impact from all MACT source categories.

- c. **Under which MACT standards, if any, are sources allowed to emit more than 10 tons of one air toxic or 25 tons of any combination of air toxics annually?**
- d. **Under which MACT standards, if any, are sources required to emit less than 10 tons of one air toxic and 25 tons of any combination of air toxics annually?**

Response:

As discussed in more detail above, MACT standards do not require sources to attain and maintain particular levels of HAP emissions. Therefore, there are no MACT standards that specifically allow sources to emit more than the major source thresholds or require sources to emit less than those thresholds and an individual source's emissions in compliance with the MACT standard can legitimately vary over time.

- 2. **The preamble to this proposal states that EPA does not believe the maximum potential increase in air toxic emissions will occur and provides a rationale. Please state how much of the potential decrease EPA believes will materialize if the proposal is finalized, and provide your rationale.**

Response:

As noted in the response to question 1.b, we are unable to provide a quantifiable nationwide HAP emission impact. We have estimated a potential impact for the SOCOMI source category.

It is EPA's best professional judgment, based on more than ten years of experience in implementing the air toxics program, that many sources that currently emit less than the 10/25 tpy major source threshold as a result of complying with an applicable MACT standard are not likely to increase emissions for the reasons provided in the preamble to the proposed rule.

- 3. If this proposed rule were finalized, would you anticipate air toxic emission reductions from sources required by MACT to emit below the 10/25 ton threshold? If so, please explain why and provide the likely potential decrease from this group of sources.**

Response:

MACT standards do not directly require sources to emit at levels below the major source thresholds. Rather, they require sources to comply with the emission limits prescribed therein and such compliance may or may not result in emissions below the major source thresholds. We do not, however, anticipate any additional emission reductions from sources subject to MACT standards that currently emit less than the 10/25 tpy major source thresholds as a result of complying with the standard. There is no incentive for them to do so.

- 4. Please provide all documents dated prior to issuance of the proposal that contain, relate to, or refer to analysis, calculations, or data regarding quantification of the potential reduction or increase in air toxic emissions that could result from this proposal.**

Response:

In developing the proposed rule, we tried to identify available information that would allow us to perform the types of analyses identified in your question. At that time we were not able to identify any information which we felt was suitable for use in performing a realistic and reliable analysis. We, therefore, decided to use the proposed rule as a vehicle for obtaining information that is suitable for that purpose. Any such information received in response to the proposal will be considered in taking final action on the proposed rule.

- 5. The preamble states that "EPA has heard from others who have taken the position that the OIAI [once-in-always-in] policy serves as a disincentive for sources to reduce emission of HAP [hazardous air pollutants or air toxics] beyond the levels required by an applicable standard." For each of these "others" from whom EPA has heard, please provide:**
- a. The name and affiliation of the person who stated that position, including the company or association that the person represented;**
  - b. The names of the EPA employees to whom that position was conveyed;**

- c. **A description of the manner in which the position was provided to EPA (e.g., written letter, oral communication, comment at private meeting);**
- d. **All documents reflecting or containing communications between EPA and the person regarding this position.**

Response:

The following documents responsive to this question are contained in Attachment 2.

From	To	Conveyance
Michael G. Mahoney, Pfizer	Mr. Robert Miller, U.S. EPA Region 5	April 24, 2001 letter
Steve Hellem, Hale and Dorr	Rob Brenner, U.S. EPA, Office of Air and Radiation	October 30, 2001 email with attachment
Bruce D. Ray, Johns Manville	Jeff Telander, U.S. EPA, Office of Air Quality Planning and Standards	February 28, 2002 letter
Steven Barre, Huntsman	John Hepola, U.S. EPA Region 6	August 19, 2002 letter
Wayne Davison, Capitol Aggregates	Peter Goerdel, U.S. EPA Region 6	October 8, 2002 letter
Albin Bauer, Eastman & Smith	Christopher Jones, Ohio EPA	October 1, 2001 letter
David Lima, Hexcel	Gerardo Rios, U.S. EPA Region 9	February 14, 2006 letter
Christopher James and Marcia Willhite, STAPPA/ALAPCO	Bruce Jordan, U.S. EPA Office of Air Quality Planning and Standards	February 24, 1998 letter
Elsie Munsell, Department of the Navy	Sally Shaver, U.S. EPA Office of Air Quality Planning and Standards	June 17, 1999 letter
Robert Roberts, ECOS	Carol Browner, U.S. EPA Administrator	August 23, 2000 letter
Dennis Treacy, VA Department of Environmental Quality	Christine Whitman, U.S. EPA Administrator	April 25, 2001 letter
ECOS	EPA	August 29, 2006 Resolution to Change the Once In, Always In policy
William Turetsky, International Specialty Products	Mamie Miller, U.S. EPA Office of Enforcement and Compliance Assurance	April 15, 2005 letter
LeahAnn Lamb, Utah Department of Environmental Quality	Kristina Heinemann, U.S. EPA Office of Environmental Policy	November 9, 2005 email

	Innovations	
Leslie Sue Ritts, NEDA/CAP	Steve Page, U.S. EPA Office of Air Quality Planning and Standards	February 22, 2006 meeting

EPA’s preamble also states that “we believe” that it is unlikely that sources that currently emit less than the 10/25 ton threshold due to MACT requirements would increase emissions up to that threshold. To support this belief, you rely on a number of assertions. Please answer the questions 6 through 9 below with respect to these assertions.

**6. You state that “many sources” that emit below the 10/25 ton threshold “do so because of the control devices they installed to meet MACT standards. Such control devices are designed to operate a certain way and cannot be operated at a level which achieves only a partial emission reduction.” For each source category that is subject to a MACT standard and that has sources emitting below the 10/25 ton threshold:**

**a. Identify the control devices or other methods sources use to meet the MACT standard;**

**In terms of the types of control devices and other methods used to comply with MACT standards, the list would be long and varied. We have reviewed the NEI to get some idea of what sources with emissions < 25 tpy are using to control emissions. Several hundred of these sources do not report what they use to control emissions and many others do not specify the types of control devices used. We have, however, determined that many sources use combustion or carbon adsorption to control emission of volatile HAP and that many sources use fabric filters to control emissions of particulate matter HAP. All three of these control devices are capable of achieving, and typically do achieve, greater than a 90 percent reduction in emissions.**

**b. Provide the percentage of sources in that category that use each control device or other compliance method;**

**Because so many sources did not report what controls are being used we cannot provide meaningful estimates of percentages as you request.**

**c. State whether the control device or other method can be operated at a level that achieves only a partial emission reduction; and**

Response:

Sources that install control devices to comply with MACT standards (or any other standard) work closely with control device vendors to identify proper sizing and configurations that will ensure that emissions from the operation or process are in compliance with applicable MACT requirements. Proper sizing and

configurations are driven by operation or process parameters such as concentration, flow rate, stack size, temperature, etc. Some control devices are “off the shelf”; others are custom-designed. In any case, the control device is built and installed to achieve compliance with all applicable MACT requirements.

Most control devices used to meet MACT standards for organic HAP employ either some sort of combustion or carbon adsorption. Combustion devices include incinerators, boilers, and flares, and are designed to operate a certain way. Boilers are an inherent part of the operation of the facility and facility operators would not try to alter their operation. Incinerators and flares are designed to certain physical specifications which cannot be changed without reworking or reconstructing the device; facility operators have no incentive to alter such equipment to handle stack emissions differently and, in fact, alterations to specifications designed for that particular source could lead to workplace hazards such as explosions. Incinerators and flares can, however, be operated with less supplemental fuel, which could affect percent emission reduction. Carbon adsorbers are also designed based on the stack characteristics of a particular source, from the type of carbon to the diameter and depth of the carbon bed. The adsorber will work well until “breakthrough,” at which point the effectiveness dramatically decreases; there is no in-between. It would be difficult to use a carbon adsorber to “adjust” a percent emission reduction.

Absorption and condensation are also potential control techniques. Absorbers are designed to meet a required reduction of air toxics. The required emission reduction drives the physical design of the absorber including height, diameter, and packing material. Operators are not likely to alter the physical design of an absorber once installed. However, parameters such as liquid flow rates, the absorbent, and pressure drop could affect efficiencies. Although condenser efficiency can be affected by temperature, condensers are not widely used solely as a control device to meet MACT standards for organic HAP.

Particulate HAP control is generally through the use of scrubbers, fabric filters, and electrostatic precipitators. Again, for these types of controls, the physical design is established by the properties of the emission stream and the required emission reduction. Scrubbers are sometimes used for particulate control. In some cases, it might be possible to reduce the scrubber pressure drop to reduce power and operating costs. Fabric filters (baghouses) are designed to a certain efficiency and there would be little financial incentive to operate them otherwise. Fabric filters are often used to control smaller sources of particulate matter emissions.

Electrostatic precipitators are used to control particulates from large process streams. The primary operational parameter to determine efficiency is voltage, and this would be difficult to alter to obtain significantly lower levels of emission reduction efficiency.

Finally, sources with control devices would have to retest to reestablish acceptable control device parameter levels to assure compliance. We believe for many sources it would be easier to continue operating as they have been.

The HAP content of low- or no-HAP solvents could also theoretically be increased; however, this appears to be unlikely to occur. Once sources have switched to a particular low-HAP coating or solvent we do not think it would likely be the case that they would switch to a higher HAP content material since this would likely require reformulation, including substantial testing to ensure that the reformulated material meets the required performance specifications. We cannot, however, rule such changes out entirely.

- d. State whether the control device or other method costs money to operate and whether it can be turned off for a given time period (or whether it must be operated continuously).**

Response:

All control devices incur operating and maintenance costs, and unless it is an integral part of the process (e.g., condensers or boilers) any control device can be turned off for a given time period, unless regulatory requirements require otherwise. In addition, an owner or operator could choose not to vent some smaller streams of air toxics to control devices in order to save some money if a PTE allows that.

- 7. If you did not have the information requested in the previous question at the time the proposal was signed, please provide the factual basis for the statements quoted in that question.**

Response:

The factual basis was our best professional judgment based on our extensive experience with all types of control devices.

- 8. You state that “in many cases, sources will maintain the level of emission reduction associated with the MACT standard because that level is needed to comply with other requirements of the Act such as RACT controls on emissions of volatile organic compounds . . .” With respect to this statement, please provide the following information:**

- a. What percentage of sources that are subject to MACT are also subject to identical or more stringent RACT controls on volatile organic compounds?**

Response:

We have been developing MACT standards for many years. In the process of developing MACT standards, we must look at what the industry is doing at the time of regulation development with respect to emission reduction in order to establish the MACT floor for existing sources, defined as the average of the best



performing 12 percent of sources. It has been our experience in many cases that numerous sources within most categories have existing controls. Because as a general matter sources do not install emission reduction controls unless required (except when dealing with very potent or hazardous substances, e.g. hydrogen fluoride, or when it is economically beneficial as when recovering energy or product), we have determined such controls generally were installed prior to MACT standards development as the result of State Implementation Plans (RACT/BACT/LAER) or new source performance standards.

While it would require significant resources and time to answer your question in detail, we have queried several of our project managers and are informed qualitatively that a significant amount of controls as the result of volatile organic compound (VOC) mandates for ozone have been in place for many years on various source categories. Here is a list of some examples of source categories that have been and continue to be subject to VOC controls:

- Fixed roof petroleum product tanks
- Fixed roof gasoline tanks
- External floating roof petroleum product tanks
- External floating roof gasoline tanks
- Terephthalic acid manufacture
- Cellulose acetate manufacture
- Polypropylene manufacture
- Polyethylene manufacture
- Ethylene manufacture
- Petroleum refinery wastewater treatment
- Petroleum refinery vacuum distillation
- Vegetable oil manufacture
- Paint and varnish manufacture
- Carbon black manufacture
- Surface coating and printing
- Ferrosilicon production
- Whiskey fermentation – aging
- Charcoal manufacturing
- Synthetic organic chemical manufacturing reactors
- Synthetic organic chemical manufacturing distillation
- Bakeries
- Urea resins
- Organic acids manufacture
- Leather products manufacture
- Petroleum refineries - Blowdown and Miscellaneous non-combustion
- Bulk gasoline terminal loading
- Cutback paving asphalt
- Synthetic organic chemical manufacturing fugitives
- Petroleum refineries fugitives
- Pharmaceutical manufacture
- Oil and natural gas fields

Gasoline service stations  
Bulk gasoline terminals

- b. Do RACT controls on emissions of volatile organic compounds apply across the entire country? If not, what areas are not subject to RACT controls for volatile organic compounds?**

Response:

RACT controls on volatile organic compounds generally only apply in ozone nonattainment areas. A list of ozone nonattainment areas is available at <http://www.epa.gov/oar/oaqps/greenbook/o8index.html>.

- 9. You state that “those sources that seek to maintain area source status will likely take PTE [potential-to-emit] limits at or near their current MACT emission levels to ensure that their emissions remain below the major source thresholds [10/25 ton threshold]. Sources have no incentive to establish their PTE limit too close to the major source thresholds because repeated or frequent exceedances above the PTE could provide the permitting authority reason to revoke the PTE and bring an enforcement action.”**

- a. Given that the PTE is an enforceable emission limit, would not the source have an incentive to have its PTE as high as possible because repeated or frequent exceedances above the PTE could provide the permitting authority reason to bring an enforcement action for violating the PTE regardless of how the PTE compares to the 10/25 ton threshold?**

Response:

Sources would have an incentive to set a PTE limitation that provides some cushion between the limitation and actual emissions. However, facilities taking permit restrictions close to the major source threshold are more likely to be subject to compliance evaluations by the state and EPA. The Agency's April 2001 Clean Air Act Compliance Monitoring Strategy (<http://www.epa.gov/compliance/resources/policies/monitoring/cmstrategy.pdf>) focuses state and federal compliance monitoring on Title V major sources and synthetic minor sources that emit or have the potential to emit at or above 80% of the Title V major source threshold. Thus, sources have a strong incentive not to establish PTE limits that are close to the major source thresholds.

- b. Is it likely that a PTE at or near the 10/25 ton threshold would give a source more flexibility than a significantly lower PTE? If not, please explain why.**

Response:

As stated in the response to question 9.a above, a greater difference between a source's PTE and its actual emissions would provide the source greater operational flexibility. However, sources closer to major source thresholds come under greater enforcement scrutiny. In developing a compliance strategy, sources

must weigh these competing interests and make choices based on their particular circumstances.

- c. A number of States have laws that prohibit State air pollution requirements from being more stringent than Federal law. Would such a State be allowed to require a source to accept a PTE in a State permit below the 10/25 ton threshold?**

Response:

Whether a particular State's law allows establishing PTE limits that are below the major source thresholds depends on the precise wording of the law in question. States that have laws prohibiting them from being more stringent than federal law would not necessarily be precluded from issuing state permits with PTE limits below the 10/25 ton per year threshold even in circumstances where an otherwise applicable MACT standard would allow emissions above the thresholds.

**10. For sources that must comply with MACT, please describe:**

- a. Sources' recordkeeping requirements;**

Response:

Sources must keep records of all information (including reports and notifications) required by part 63 of the Code of Federal Regulations. Such records include those pertaining to startup, shutdown, and malfunction of the process, and air pollution control and monitoring devices; maintenance performed on air pollution control and monitoring equipment; all measurements required to demonstrate compliance with the relevant standard, including, as appropriate, continuous monitoring system data and measurements; results of performance tests, continuous monitoring system performance evaluations, and opacity and visible emission observations; all continuous monitoring system calibration checks and adjustments; and records for applicability determinations.

- b. Sources' reporting requirements;**

Response:

Sources must report results of performance tests and opacity or visible emissions observations; startups, shutdowns, and malfunctions periodically and immediately, if necessary; results of continuous monitoring system performance evaluations, excess emissions and continuous monitoring system performance at least semiannually; and continuous opacity monitoring system data produced during a performance test.

- c. Sources monitoring obligations;**

Response:

Sources must monitor emissions, control device performance, or other parameters such as inventories or solvent HAP content to demonstrate continuing compliance with standards. Monitoring devices must be installed, operated, and maintained in a manner consistent with good air pollution control practices. Control devices must generally be monitored continuously, and parameter monitoring is appropriate (e.g., temperature, pressure drop) to determine proper operation. Fluctuations outside of normal parameter ranges are an indicator of problems and are identified as excursions of the standard. Some standards require continuous monitoring system performance evaluations.

**d. Sources' Title V permitting obligations;**

Response:

The applicable requirements under Title V, which are the federal requirements that must be included in the Title V permit, are the section 112 regulations and standards themselves. All title V permits require prompt reporting of deviations, reporting of required monitoring every 6 months, and an annual compliance certification, independent of the standards themselves contained in the permit.

**e. Citizens' right to bring enforcement actions against sources that are not complying with the applicable MACT standard; and**

Response:

Section 304(a)(1) of the Clean Air Act provides citizens the authority to commence civil action against any person who is alleged to have violated or to be in violation of an emission standard or limitation under section 112 of the Clean Air Act or an order issued by the Administrator or a State with respect to such a standard or limitation. This authority would apply to violations of a MACT standard.

**f. Whether EPA can bring enforcement actions against sources that are not complying with the applicable MACT standard.**

Response:

Section 113(a)(3) of the Clean Air Act provides the Agency the authority to enforce against the owners/operators of facilities in violation of section 112 of the Clean Air Act (National Emission Standards for Hazardous Air Pollutants).

Most MACT standards contain similar recordkeeping, reporting, and monitoring requirements as described below. Other source category-specific requirements may be found in the individual subparts contained in the 6 volumes of the Code of Federal Regulations for chapter 40, part 63.

**11. If the proposal were finalized and sources choose to avail themselves of the regulatory provisions of the rule and accept a PTE, please describe the Federal requirements for these sources:**

**a. Sources' recordkeeping requirements;**

Response:

Sources must retain all records related to monitoring, testing, emission calculations, and any other compliance determinations with respect to ensuring the PTE limitation is not exceeded.

**b. Sources' reporting requirements;**

Response:

The permit establishing a PTE should provide specific reporting requirements as part of the compliance method, and would focus on exceedances of the PTE or other operational or emission point specific limitations established in the permit.

**c. Sources monitoring obligations;**

Response:

In the permit, the PTE must clearly specify the limits that apply, and include the specific associated compliance monitoring. The limits must be technically specific and accurate to limit potential to emit, identifying any allowed deviations. Further, the limits established must be technically sufficient to provide assurance to EPA and the public that they actually represent a limitation on the potential to emit for the source identified. Any presumption for control efficiency must be technically accurate and the permit must provide the specific parameters as enforceable limits to assure that the control efficiency will be met. For example, material usage limits such as fuel limits, as stated above, require specifying the type of fuel and may require specifying other operating parameters. The monitoring must be sufficient to yield data from the relevant time period that are representative of the source's compliance with the standard or limit. Continuous emissions monitoring, especially in the case of smaller sources, is not required.

**d. Sources' Title V permitting obligations; and**

Response:

All title V permits require prompt reporting of deviations, reporting of required monitoring every 6 months, and an annual compliance certification associated with the PTE limitations.

**e. Citizens' right to bring enforcement actions against sources that are not complying with their PTE.**

Response:

Section 304 of the Clean Air Act provides citizens the authority to commence civil action against any person who is alleged to have violated or to be in violation of an emission standard or limitation under section 112 of the Clean Air Act or an order issued by the Administrator or a State with respect to such a standard or limitation. This authority would apply to violations of a MACT standard and of federally-enforceable PTE limitations.

**Please also state whether EPA would have the ability to bring an enforcement action against sources that are not complying with their PTE.**

Response:

The OIAI proposed rule is not intended to address the requirements for establishing PTE limits. Instead, it deals with the timing of when sources can take PTE limits in order to not be required to comply with the provisions of one or more MACT standards. As a result, the OIAI proposed rule has no impact on the source's requirements resulting from taking a PTE limit.

Current requirements related to PTE limits for HAP emissions are outlined, among other places, in the January 25, 1995 memorandum entitled "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)." Additional guidance was then issued in January 22, 1996, in response to the D.C. Circuit Court of Appeals ruling in National Mining Association v. EPA (59 F.3d1351, D.C. Cir 1995).

Importantly, the concept of "enforceability" – whether it be by a state or the EPA -- incorporates two separate fundamental elements that must be present in all limitations on a source's potential to emit. First, the limitation must be enforceable by a governmental entity, and not merely voluntary. NMA, 59 F.3d at 1362. Second, limitations must be enforceable as a practical matter or "effective." Id. Over the years, EPA has issued numerous statements regarding elements of a limitation that is enforceable as a practical matter (e.g., effective).

EPA can enforce federally-enforceable PTE limits and MACT standards.

- 12. Please provide all documents (including those from regional offices, the Office of Enforcement and Compliance Assurance, the Office of General Counsel, or the Department of Justice) discussing, regarding, or relating to the potential effect of the proposed rule, if adopted, on:**
- a. Sources' recordkeeping, reporting, monitoring, or Title V obligations; or**
  - b. On EPA's or citizens' ability to enforce air toxic requirement (including PTEs).**

Response:

Please find attached a copy of the documents that we believe are responsive to your request.

# Once In/Always In Analysis

U.S. EPA  
Office of Air & Radiation  
March 2007

# Data Set

- Synthetic Organic Chemical Manufacturing Facilities (Hazardous Organic NESHAP)
  - Residual Risk Assessment
    - September 2005 Report
      - Docket Item EPA-HQ-OAR-2005-0475-0108
  - 228 Major Facilities
    - Verified to be major
    - Facility-level hazardous air pollutant (HAP) emission data from 1999 National Emission Inventory (NEI)



# Maximum Potential Increases in HAP Emissions

What is the potential HAP emission increase for major sources with actual emissions <10/25 to increase to the 10/25 potential to emit (PTE) limit under the proposal?

Facilities	Actual HAP Emissions <sup>1</sup> , tons per year (TPY)	Maximum Potential Increase in Emissions <sup>2</sup> , TPY
228 major sources	56,014	
55 of 228 sources <25/10 TPY	398	976 <sup>3</sup>
21 of 55 sources in O3 attainment areas	167	358

1. Facility Emissions from the 1999 NEI;  
Docket Item EPA-HQ-OAR-2005-0475-0108.4
2. Total emissions after PTE limit = Actual + Potential Increase
3. Not expected since it includes sources in O3 non-attainment areas

# Potential Decreases in HAP Emissions

What is the potential HAP emission decrease for major sources with actual emissions >10/25 to decrease to the 10/25 PTE limit under the proposal?

<b>Facilities</b>	<b>#Facilities</b>	<b>HAP Emissions, TPY</b>
173 sources >10/25 TPY	173	55,616 <sup>1</sup>
Reduction if all sources within 20% of 10/25 (<12/30) decrease to 10/25	11	23
Reduction if all sources within 50% of 10/25 (<15/37.5) decrease to 10/25	17	77
Reduction if all sources within 75 % of 10/25 (<17.5/43.75) decrease to 10/25	23	156
Reduction if all sources within 100% of 10/25 (<20/50) decrease to 10/25	31	300

1. Facility Emissions from the 1999 National Emissions Inventory; Docket Item EPA-HQ-OAR-2005-0475-0108.4