



U.S. Environmental Protection Agency – November 2004
Compliance and Enforcement National Priority:
Clean Air Act, Air Toxics

The United States Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA) has established national priorities for federal fiscal years (FY) 2005 through 2007. OECA and the EPA's 10 Regions will make the following issues priorities for monitoring, compliance assistance, enforcement and cleanup actions over the next three years:

1. Clean Air Act: Air Toxics
2. Clean Air Act: Prevention of Significant Deterioration and New Source Review
3. Tribal
4. Clean Water Act: Wet Weather, including:
 - Concentrated Animal Feeding Operations
 - Combined Sewer Overflows
 - Sanitary Sewer Overflows
 - Storm Water
5. Resource Conservation and Recovery Act: Mineral Processing and Mining

After evaluating the Safe Drinking Water Act (SDWA) Microbial Rules as a national priority, the Agency determined that it was more appropriate to address the microbial non-compliance problems, which occur predominately at very small drinking water systems, through the SDWA core program. The Petroleum Refining national priority is near completion and will be assessed during the coming year to determine if sufficient progress has been made to return this priority to the core program.

The Air Toxics strategy summary that follows provides clear goals to achieve maximum compliance with environmental regulations in order to protect human health and the environment.

Background

Toxic air pollution was selected as a national enforcement and compliance assurance priority for the FY 2005 - FY 2007 period because it met the selection criteria: (1) increased national attention could lead to significant environmental benefits; (2) there were patterns of non-compliance; and (3) EPA was well-suited to take action in this strategy area. The Air Toxics strategy focuses on categories of sources that emit hazardous air pollutants (HAPs) as defined by Congress in the 1990 Clean Air Act Amendments. The Clean Air Act (CAA) HAP emission standards for a particular source category are based upon the emissions levels already achieved by the best-performing similar facilities. This is referred to as Maximum Achievable Control Technology (MACT).

In the past, EPA has focused on developing compliance assistance and compliance monitoring

tools to assist both the regulated community and the regulators. EPA's compliance assistance has generally been directed at MACT standards for small sources, such as dry cleaners, electroplaters and degreasers. EPA developed outreach and inspection tools as well as templates for enforcement documents for regional, state, tribal and local inspectors to use to enforce MACTs. EPA also provides incentives for voluntary compliance.

The air toxics national performance-based strategy builds on the MACT Compliance and Enforcement Strategy issued in April 2003. The aim of both strategies is to increase the compliance rate of sources subject to Clean Air Act MACT standards. The air toxics performance-based strategy includes quantitative goals and measures.

The Environmental Problems

Air Toxics refer to HAPs which include pollutants that are known or suspected to cause adverse environmental or human health impacts. The pollutants come from a wide variety of sources, from industrial and utility operations to smaller manufacturing and commercial sources. Human exposure to air toxics is a widespread problem throughout the nation and their health impacts can include cancer, reproductive or birth defects and severe respiratory problems.

Because there are no national ambient air quality standards for HAPs, Congress directed EPA, through the 1990 Clean Air Act Amendments, to develop MACT standards for 189 HAPs. To date, EPA has issued approximately 90 MACT standards to control HAPs. It is the responsibility of EPA, in conjunction with the State and local agencies and tribes, to ensure compliance with the MACT standards to reduce the public's exposure to toxic chemicals. Approximately 2,500 "major" facilities in the nation are affected by the MACT standards. A "major" source is one that has the potential to emit 10 tons per year (TPY) or more of any HAP, or 25 TPY or more of any combination of HAPs. The distribution of these sources varies throughout the country.

Goals

Goal 1: To protect public health and the environment from the excess emissions of air toxic pollutants. EPA will achieve this goal through the following activities:

- ☐ Identify and address high-risk sources;
- ☐ Focus on major MACT affected sources while allowing EPA Regions the flexibility to target other source categories for evaluation (i.e., dry cleaners, degreasers, secondary aluminum production facilities and electroplaters);
- ☐ Consider environmental justice, or disproportionate impacts on certain communities, in targeting MACT source investigations;
- ☐ Use targeting tools to identify major areas of non-compliance and prioritize high-risk sources;
- ☐ Identify gaps in data collection and address them;
- ☐ Coordinate enforcement efforts with states, tribes and local air regulatory agencies; and
- ☐ Consider Indian country in targeting MACT source investigations.

Goal 2: To reduce by at least 36,000 pounds (12,000 pounds a year) emissions regulated by the MACT standards during the FY 2005 through FY 2007 period. EPA will achieve this goal through the evaluation and enforcement of strategically chosen MACT standards. Sources identified as violating the emission requirements will be subject to enforcement.

Strategic Tools

- □ Each of 10 EPA Regions will select two MACT standards per year between 2005 and 2007. The Regions will identify and address substantive areas of non-compliance with those standards. Regions will select for evaluation MACT source categories that present the greatest human health risk and/or non-compliance concerns in their areas.
- □ Between 2005 and 2007, each Region will evaluate at least three MACT source categories. Regional evaluations will use a variety of compliance evaluation tools, compliance assistance options and enforcement activities. Over the next three years, EPA will evaluate at least 20 different MACT source categories.
- □ Compliance staff from EPA headquarters and its regional offices will carry out one national MACT investigation. The source category will be selected by consensus among the regional offices.
- □ OECA will monitor the selected MACT standards, the cases initiated and settled, and the environmental results achieved and facilitate communications among the Regions and with the public.

Performance Measurement

When the goals are achieved, air toxics compliance and enforcement efforts will continue as part of OECA's core program. Substantive compliance in the MACT program will require a significant long-term commitment to air toxics enforcement at the federal, state, local, and tribal levels