

Clean Air Act Section 112
Implementation Workshop

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Prepared for:

Sheila Milliken
MD-12
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Research Triangle Park, North Carolina 27711

Prepared by:

TRC Environmental Corporation
Suite 200
6340 Quadrangle Drive
Chapel Hill, North Carolina 27514

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Direction of Air Toxics
John Seitz
Director, Office of Air Quality Planning and Standards

Seitz welcomed the over 250 participants which included staff from all 10 EPA Regions and over 50 State and local programs, noting that the representation was a tribute to the partnerships developing among Federal, State, and local regulators. With the air toxics program beginning to hit full stride, there are immense challenges for the EPA, State, and local regulators. To be successful, it is necessary to think strategically and creatively, as "business as usual" will not get the job done.

Seitz posed four questions for the participants to keep in mind during the sessions:

1. How can Federal air toxics provisions be effectively integrated with other provisions of the Clean Air Act, as well as with existing State air toxics programs?
2. How will section 112(g) mesh with the existing new source review program?
3. How will the MACT program mesh with existing SIP requirements?
4. How can the new Federal rules being developed be better integrated with existing State and local air toxics programs?

Seitz challenged the group to think of better ways to represent success of air toxics rules and to more eloquently make the case for air toxics control. He posed the question of how to ensure that States will implement the MACT program, especially when sources are subject to a MACT standard, but not subject to permit requirements. Given all of the work ahead, Seitz encouraged the EPA, States and local agencies to improve information exchange and communication efforts. With regard to the regulatory agenda, Seitz encouraged the sharing of expertise in implementation, noting that it may be desirable to "let the MACT hammer fall" in cases where there are only a few sources in the country.

He highlighted the following efforts the EPA has underway:

- Innovative ways (e.g., Share-a-MACT and Adopt-a-MACT) for the EPA to get assistance from States in writing national standards.
- The OAQPS reorganization that will better integrate the air toxics program with the criteria pollutant program.

Seitz concluded by recognizing the contributions of the STAPPA/ALAPCO Air Toxics Committee, State and local officials, Regional and OAQPS staffs, OSWER and OECA for their help in planning the conference.

Status of Section 112
How We Get There - Implementation Changes
Bruce Jordan
Director, Emissions Standards Division

Jordan characterized the biggest challenge of the air toxics program as ensuring that toxic emissions reductions are achieved. He reviewed recent past activities, listed tasks for the future, and suggested ways of tackling those tasks.

One year ago, the EPA proposed four MACT standards, completed four major programmatic rules, and completed one mandated special study. No standards had been promulgated. Jordan noted that this was not a good record. In the past year, the EPA has proposed 10 MACT standards and promulgated four standards that would reduce HAPs emissions by an estimated 785,755 Mg per year, a total reduction higher than over the past 20 years combined. In addition, in the past year, the EPA proposed one and promulgated four programmatic rules.

In September 1994, the EPA will propose the municipal waste combustors rule required by section 129 of the Act. This rule will have a significant impact on the reduction of air toxics. By November 1994, the EPA will have promulgated five additional standards.

Also relevant to air toxics accomplishments in the past year, Jordan cited the hydrogen fluoride study, the National Academy of Sciences study, the Great Waters Study and the interim utility study. The Great Waters Study is expected to set the stage for much future air toxics work, especially in the non-health arena. Other studies underway include the final utility study and the mercury study, which has the potential to change the way mercury is controlled.

Although the EPA has addressed 30 source categories, there are approximately 174 source categories remaining. To achieve this goal and to focus on implementation, it will be necessary for the EPA headquarters, the Regional offices, and State and local agencies to continue to work as partners, as has been the case over the past year where State and local agencies have helped the OAQPS. Jordan described the very useful Brown Summit meeting where the EPA headquarters, the EPA Regional, State and local agency staff members held "no holds barred" interactive sessions which generated many good recommendations. He noted that the OAQPS has acted on 36 of these recommendations.

One initiative aimed at successful implementation has been the involvement of the EPA/State/local partners more often and in new ways. To this end, State and local agencies have been involved in more than 40 workgroups, making these partnerships more effective. In addition, the EPA has formed an upper management task force of headquarters, Regional, and State and local partners to define the roles and responsibilities of such partnerships. The task force has worked at identification issues and resolution of these issues, made a

commitment to work together as evidenced by Brown Summit and this workshop, and identified ways to build and maintain trust.

Jordan listed several challenges ahead that must be overcome with less resources. These include:

- development of 43 MACT standards due in November 1997, many of which have not been started;
- completion of infrastructure work by the end of 1995, including 112(g) and the potential to emit (PTE) issues;
- completion of studies and strategies including the second Great Waters report, the urban area source strategy, the mercury study, the utility study, the residual risk study; implementation and integration with other programs; and
- evaluation of risk reduction needed to better evaluate the program.

Jordan stressed that the EPA and the State and local agencies are a "winning team" and that he welcomes the opportunity to work together.

Jordan mentioned one specific immediate need for State and local assistance: feedback on the case-by-case MACT database. He asked that approximately 30 volunteers work with the EPA staff during the workshop to address improvements in this database.

**State's Perspective on
Implementation and Identification of Key State Issues
Don Theiler
Bureau Director, Wisconsin Department of Natural Resources**

Theiler urged that the EPA and State and local agencies continue working together, noting that this coordination is working well. A unique situation exists in that EPA which is usually directing States, is catching up with air toxics programs, which are being led by State and local agencies. He stressed that discussions at this workshop are very significant and that the EPA uses the suggestions developed at such forums. He urged participants to use this workshop to identify some new directions during this important time period.

Theiler listed three important issues on which the workshop participants needed to provide feedback to the EPA:

1. The MACT workgroup process. The workgroup process is the basic process for establishing MACT standards. How is it going? Is the system working? Better communication is needed among State and local agencies, the EPA headquarters, and the EPA Regions. More State and local agency involvement in the development of MACT standards is needed.
2. Operating permit programs. The operating permit programs will be in place soon and there will be many toxics questions such as on section 112(g), case-by-case MACT, PTE, Federal enforceability of synthetic minors, etc. By the next air toxics workshop in August 1995, States will have had considerable experience in this area.
3. MACT partnerships. Partnership arrangements for the development of MACT standards, such as the Share-a-MACT and Adopt-a-MACT efforts, need to be expanded. About 15 to 20 State and local agencies are needed to devote a large amount of effort with the support of the EPA funding. This is an intensive 3 to 6 year commitment. With the support of the EPA funding, States could "backfill" positions with staff members devoted to MACT development. Theiler noted that this program will help State and local agencies in the long run.

Theiler discussed several of the special studies now underway. He cited the importance of the urban strategy with regard to sources not covered by MACT standards. He noted that he was not encouraged by the current status of this study. In addition, Theiler noted that the recent mobile source toxics study was not well done and that the conclusions are erroneous. Mobile air toxics sources cannot be ignored. State and local agencies need to examine and comment on this study.

The Great Waters Study is another study which State and local agencies need to be aware of, especially with regard to lesser quantity cutoffs. It will be important to follow through on this study. Theiler noted that the mercury study and the utility study need to be hard hitting.

Theiler encouraged participants to transmit ideas from the workshop to their respective State and local air directors, and to get to know each other and to communicate informally at the workshop.

**Questions and Answers on the
Direction of Air Toxics, Status of Section 112, and
State's Perspective on Implementation**

Comment: It is important to get involved with the problem of toxic emissions from mobile sources. No one is looking at dioxin emissions from diesel vehicles. There was a Norwegian study on such emissions in 1991. Where is the chlorine coming from? Is this a problem in the petroleum refineries, the desalting process, or perhaps petroleum crude? The problem has not been addressed. Since dioxins from incinerators are such a concern, we ought to be looking at dioxins from diesel vehicles. (Jack Lauber New York)

Response: The dioxin study will probably be coming out sometime within the next few weeks. It focuses on some stationary sources, and notes that dioxin is present from unknown sources. Effort is still needed to identify other sources of dioxin. Municipal waste combustion regulations will be proposed in early September, followed by the medical waste incinerator rules. (Bruce Jordan)

Regarding the mobile source issue, Don Theiler asked the STAPPA/ALAPCO subcommittee on risk to come up with a position statement commenting on the mobile source study. The need to consider dioxin emissions from diesel vehicles is one example that can reflect dissatisfaction with the existing study. (Don Theiler)

Question: Please comment on the integration of the RCRA program as it involves air toxics, especially the national combustion strategy. (Jack Lauber New York)

Answer: The OAQPS is interfacing with the RCRA staff to discuss the standards each group is setting and to try to mesh the two programs, although the programs seem not to agree legislatively. Once either program sets standards, they must be implemented. If one standard deals with the air toxics and one with hazardous waste combustion, and they are both hitting the same source, it does not make a lot of sense. The OAQPS and the RCRA staff are trying to work in concert as they set the standards under the two programs. (Bruce Jordan)

Wisconsin's experience has shown that there are problems interfacing some of these programs. He cited the problem of disposal of soils contaminated by leaking underground storage tanks. Wisconsin wants such soils to go to a good, high-level treatment system where the contamination would be burned off. This is difficult, however, because of the storage and handling requirements. There seems to be a predilection for these soils to go to landfills, which would only lead to further volatilization of the contamination. (Don Theiler)

Comment: Voluntary compliance will be an important part of making the air toxics program work over the next couple of years. Finding ways to express the additional protection from the imposition of particular standards will be important so that a business sector can know what kind of protection they are buying for their input of capital. They will not want to see

this expressed in excess cancers per thousand or in number of standards promulgated, but would like to see some other quantifiable measure. (George Frantz Massachusetts)

Response: This is indeed one of the biggest challenges we are facing. (Bruce Jordan)

Question: Regarding the MACT partnerships, is it realistic to expect the EPA to "pick up the tab" for a 3 to 6 year commitment? If it is, where do we sign up?! (Paul Gerbec - Minnesota)

Answer: There are limited resources available for the MACT standard job. The EPA's budget for contractor support, used extensively for standards development in the past, has been reduced significantly. The Agency is studying the option of using some of the remaining contractor funds to support State/local MACT partnerships. (Bruce Jordan)

When the EPA uses contractor support on standards development, contractors contact State agencies for information. The funding of MACT partnerships may be a more effective way to use these funds. Many State air directors look at such partnerships as an extra burden, but MACT standards can be developed successfully within such partnerships. There are several details (e.g., confidentiality) to work out to make such partnerships effective. (Don Theiler)

Question: How do you see the differences between STAPPA/ALAPCO and the EPA as far as policies are concerned, and what is being done about it?

Answer: There will always be differences. If State and local agencies identify priority issues to the EPA, the EPA will listen and respond. One example was with cross pollutant trading in the HON. Some priorities for the next year are the implementation of section 112(g), potential to emit, and processes for State/local involvement in the MACT standards. (Don Theiler)

Differences should not override the objectives that need to be accomplished in the air toxics program. Talking about such differences will likely lead to developing solutions. With one mouth and two ears, we should be listening twice as much as we talk! (Bruce Jordan)

INFORMATION SESSIONS

MACT Partnership Program - State Perspectives
Fred Dimmick
Assistant to the Director, Environmental Standards Division
Office of Air Quality Planning and Standards

Panel Members: Audrey O'Brien, Washington Department of Ecology
 Steve Fruh, OAQPS
 Lynn Hutchinson, OAQPS
 Jon Heinrich, Wisconsin Department of Natural Resources
 Don Theiler, Wisconsin Department of Natural Resources

Fred Dimmick began this session by explaining that MACT partnerships are partnerships between State and/or local air agencies and the EPA. This program is designed to share the leadership in developing MACT standards. In July 1994, the EPA Administrator and six State program directors issued a letter supporting partnerships in general. Dimmick's panel focused on the large number of MACT standards to be completed with limited resources, possible MACT partnerships as a solution to this problem, an overview of MACT partnerships, reports on MACT partnership pilot projects, and activities for the future.

Over the next several years, the EPA is responsible for developing MACT standards for 189 pollutants from 173 source categories. This task, mandated by statute, represents more standards than the agency has ever developed in such a time period, including air or water standards. In the past two years, the EPA's air toxics budget has been cut by 70 percent. To address these problems, the Agency has redefined the process and had to put some of the seven-year standards on hold.

Dimmick pointed out that, under the EPA's traditional standard development approach, the EPA assigns a contractor to the standard, the contractor studies the industry, the Agency and the contractor put together an analysis of the industry as a basis for the standard, and then considerable rework is necessary because external discussion occurred late in the process. Traditionally, this process has taken five workers 5 years to complete. However, with the MACT hammer provisions in section 112(j) of the Act, Dimmick emphasized that this traditional approach is too time consuming to be successful.

The solution to the problems of the large number of standards and the limited Agency resources is to develop MACT partnerships. Dimmick identified three important components that make such partnerships successful. First, up front planning and working with all interested parties avoids rework. Second, it is important to leverage experience, knowledge, and skills -- find the right collection of people -- to develop the standard. The final component is a consensus-based approach to the selection of the MACT. Dimmick highlighted the importance of the people involved accepting the consensus at the end of the MACT selection process.

The concept of MACT partnerships began in late 1993 with the EPA and STAPPA/ALAPCO management, in the face of the EPA's FY 1994 budget cuts. The concept developed more fully at the EPA-STAPPA/ALAPCO long range planning retreat in February 1994. Pilot projects have been completed by the States of Washington and Wisconsin, and different types of MACT partnerships have developed. Of the 43 source category standards due in November 1997, eight have only one source and eight have only two or three sources. Dimmick pointed out that the State air agencies in States where these sources are located know more about them than other regulators, making these States good EPA partners for these categories.

Dimmick described the initial steps in the MACT partnership standard development process. First, the EPA and STAPPA/ALAPCO identify source categories that are good candidates for partnerships. Next, the EPA and State/local experts meet early in the process, and then consult with industry and environmental groups. These early steps focus on identifying a knowledgeable team of people. In the "experts meeting," the aim is to produce a presumptive MACT, a judgement of what the experts believe MACT to be; a list of questions the experts need to answer; and a description of the process for development of the regulation.

Three regulatory development processes have been outlined for MACT standards. First is the "streamlined traditional" approach which is handled by the EPA. The second is the "share-a-MACT" approach in which the EPA takes the lead and State/local agencies and industry contribute. This is the likely option when there are more than a few sources, but States have some regulations, experience, or special knowledge. The share-a-MACT process was used for the primary aluminum standard. The third option is the "adopt-a-MACT" process where data collection and analysis is led by a State or local agency and the regulation is signed by the EPA Administrator. This process is used when there are only a few sources in the source category or when the sources are only located in a few States.

Two pilot projects have been undertaken. The yeast manufacturing MACT was a partnership among Wisconsin, Maryland, and the EPA's Emissions Standards Division; and the primary aluminum MACT was a partnership among the ESD, the States of Washington and New York, and the EPA's Emissions Monitoring Branch.

Dimmick posed the question, "How is it possible to complete standards in the allotted time?" With 16 of the 43 source categories due in November 1997 being candidates for MACT partnerships, States could complete these 16 with the EPA follow through to get the regulations out. Consensus on presumptive MACT will carry considerable weight when there is a small number of regulators involved in the process. Dimmick noted that future plans call for more industry involvement. He added that environmental groups support the MACT partnership program because they are involved early in the process.

The next steps for partnership process include review of "process maps," scheduled as one of the workshop's interactive sessions, and building partnerships.

**MACT Partnership
"Share-A-MACT" Pilot Project
Primary Aluminum Production
Stephen Fruh, OAQPS
Audrey O'Brien, Washington Department of Ecology**

The primary aluminum industry in the U.S. is composed of 91 potlines at 23 plants in 14 States. Washington has seven plants and New York has two. With seven plants, Washington had considerable background information.

Each primary aluminum plant has multiple potlines with different controls. The processes to be addressed in the MACT include paste production operations, anode baking (prebake plants), and primary and secondary emissions from smelting. The evaluation of controls for each process focused the study on potlines where most emissions occur.

Hazardous air pollutants (HAP) of concern are hydrogen fluoride (HF) and polycyclic organic matter (POM). Regarding HF, most available data are for total fluoride (TF) from an NSPS established in the early 1970s. Little information is available on POM. Because of limited data for both HF and POM, the team is considering the use of surrogates for HF and POM, specifically, TF and particulate matter for POM. The PM/POM relationship is currently being tested. All 23 plants are major sources, meeting either the 10 tpy individual HAP level or the 25 tpy combined HAP level. Any given process in a plant is also a major source. Fruh presented annual emissions data for each process.

O'Brien explained that the primary aluminum MACT was selected as a pilot share-a-MACT project in part because Washington volunteered. She explained that Washington was in the process of evaluating their primary aluminum standard and wanted to influence the MACT development process. Other reasons for the selection of the primary aluminum MACT were that it was due in November 1997, the EPA contractor funds had been cut, Washington had some source testing funds allocated, and other States such as New York were interested in participating.

The share-a-MACT partnership process is in a continual state of change, according to O'Brien. She elaborated on the steps outlined by Dimmick. First, the EPA and the lead State/local contact identify State and local agencies interested in participating. This is needed early in the process. Next, the interested parties meet to discuss presumptive MACT and prepare a work plan to resolve technical and policy issues and identify tasks. Then EPA and the lead State/local agency implement the work plan, which includes conducting source testing, preparing the background documents, and writing the draft rule and preamble. After the determination of the recommended MACT standard, the team obtains technical peer review from industry, NAPCTAC, environmentalists, OGC, OMB and other groups as necessary. This is followed by proposal, response to formal public comments, and promulgation.

The primary aluminum work has been underway since late 1993, with frequent interaction among the MACT partners. The team has identified State/local contacts, including a contact in each State with a primary aluminum plant. Washington, the lead State, has focused on the most effective ways to exchange information. States have provided permit information to the EPA. The team held a conference call with the EPA and other regulatory agencies in May, and met in late July for a day and a half to determine presumptive MACT, discuss the remaining issues and future tasks, and to assign responsibilities. Both meetings required significant preparation. O'Brien noted that the July meeting could have been held for two days.

At the presumptive MACT meeting, the team agreed on the definition of the source, which includes the potline and two other sources. The team also agreed on subcategorization and on the approach to determination of the MACT floor, which will be based on the median performance of the top five sources, since there are fewer than 30 sources. The team agreed on presumptive MACT emission limits for TF from the aluminum smelting process.

Fruh listed the future tasks set by the team at the July meeting. This included additional source testing. While some existing data were used for this project, processes in other MACT standards may not have existing information available. Other future tasks were to determine the relationships between POM and TF and TF and HF as surrogates, review the need to go beyond the MACT floor if justified, develop MACT standards based on results of emissions testing, agree on enhanced monitoring, and prepare the technical support document. Fruh pointed out that enhanced monitoring is an important part of rule development, adding that work is ongoing on an HF continuous emission monitor. The team hopes to complete these tasks by late 1994. Tasks remaining will include continued outreach to environmentalists, the EPA management review, proposal and promulgation.

O'Brien listed several benefits of the share-a-MACT process, citing some accomplishments of the primary aluminum team. These included information exchange; additional resources from the States such as contract funding (e.g., for source testing), experience (e.g., Washington has engineers with up to 20 years of experience with primary aluminum plants), and contacts with other States; States helping each other (e.g., Washington toured New York plants and vice versa); resolution of data needs through source testing; and work by the EPA and States toward a common goal.

O'Brien listed several suggestions to improve the share-a-MACT process. This was also discussed in the interactive session. The EPA needs to include State and local agencies in developing the project work plan and to improve outreach efforts with environmentalists. State and local agencies need to ensure resource commitments which included some level of FTE support (three to five people are needed), funds for testing or related needs, and funds to attend meetings often held out of State. Face-to-face interaction is important. The EPA needs to increase appropriations and contract funds. Additional planning for the presumptive MACT meeting would have been useful in the primary aluminum project, including early

outreach. The primary aluminum project team plans to continue the technical exchanges among states that they have begun, such as visiting plants in other States.

Questions and Answers on the MACT Partnership Program

Question: Describe how you determine presumptive MACT? Daily basis? Yearly basis? Once MACT is determined, what is its impact on toxics reductions? (Mike Scott, Minnesota)

Answer: The primary aluminum industry had an NSPS in place based on pounds per ton of production. The MACT team agreed to use this. It was acceptable to industry and several States used this approach. Estimates of emission reduction were not yet completed, as of the workshop, but application of the presumptive MACT would have a "positive effect" on emission reduction. Steve Fruh recommended selecting a conservative, yet realistic, presumptive MACT. The primary aluminum team had considerable data to draw on and this helped in the selection of the presumptive MACT. (Steve Fruh)

O'Brien added that the issue is arising concerning the units of pounds per ton of production. The team will be looking at this. The industry's presumptive MACT was only slightly less stringent than the team's, and the industry's estimate of emission reduction was about one third of the team's, but the industry did not consider the entire source category. Fruh added that there are some processes not currently controlled by industry for which the MACT team will be proposing controls.

Question: There should be some connection between the emission limits that are set and the eventual residual risk levels that will be coming out in 7 or 8 years. The political reality is that if a source has applied millions of dollars of controls and is still not meeting the residual risk because it only put on the median controls when more control was possible, there will be a problem when the residual risk levels are determined. Is there some connection?

Answer: The primary aluminum team is looking at going beyond the MACT floor, and this is where they will have to look at the question of residual risk. The team is looking at remaining risk after controls, but is not sure what the outcome will be. (Audrey O'Brien)

Steve Fruh added that residual risk is quite pollutant dependant. HF is not as much of a concern as POM, a carcinogen.

Question: What does the EPA plan to do after a share-a-MACT is established? How will the EPA implement it at the Federal level? Will a different Federal standard come out a few years latter? (Robert Todd, Texas)

Answer: The EPA promulgates all standards as before, even if they are developed using the share-a-MACT process. Standards developed under the share-a-MACT process are Federal standards. Share-a-MACT reduces uncertainty by bringing everyone together -- industry and State and Federal regulators. There is a window of uncertainty while the standard is being developed, but during that time, States have presumptive MACT. The presumptive MACT

will reduce, but not eliminate, uncertainty in case-by-case MACT determinations. If States are looking at developing or revising rules for MACT categories, it is useful to communicate that to the EPA. It may be possible that the MACT schedule could be adjusted to accommodate that State need. (Fred Dimmick)

It is hard for States to move ahead of MACT development. Part of setting the presumptive MACT based on limited information is to look at issues that will arise as a result of use of that information, and what will happen when additional information is available. For primary aluminum, the team is not suggesting that industry do anything that will require a capital investment that they should not already be making. The numbers being set out now are not inconsistent with what the final numbers are going to be. Moving ahead rather than waiting was what led Washington to be on the MACT team for the primary aluminum MACT. (Audrey O'Brien)

Adopt-a-MACT Process - Yeast Manufacturing
Jon Heinrich, Wisconsin Department of Natural Resources
Lynn Hutchinson, OAQPS

Lynn Hutchinson noted that the EPA had done some work on the Baker's yeast manufacturing control technologies in the early 1990s. She acknowledged that Wisconsin and Maryland volunteered to work on this MACT standard.

Jon Heinrich characterized the Baker's yeast manufacturing adopt-a-MACT effort as a "success story." The team has developed a presumptive MACT document. The MACT team is composed of staff members from Maryland and Wisconsin, and from the OAQPS. Assistance has been provided by other State and local agencies as well. Heinrich described the steps of the adopt-a-MACT process.

Presumptive MACT allows State and local agencies to move forward when they face a section 112(g) determination and will also be useful should the MACT hammer ever fall. The upfront involvement of State and local agencies in this process is very important.

Wisconsin was a good candidate for the MACT development because the State had been involved in developing non-CTG RACT. Yeast manufacturing was a good candidate for adopt-a-MACT because the EPA had a CTG available for the industry and a draft AP-42 section, and because there were only a few sources in a few States.

The first step was planning and directing. The EPA committed \$10,000 to the project for travel and administrative help, and Wisconsin committed resources to about the same level. This commitment of resources was very important. Weekly conference calls were held for the project team which proved critical to keeping the project focused and on schedule. A workplan and schedule were developed. The EPA and Wisconsin prepared a draft agreement to carry out the project. This will be turned into a memorandum of understanding.

The Wisconsin staff has put in about 475 hours to date and Heinrich estimated that the work is about two thirds completed. This includes developing drafts for the experts meeting, sharing information, developing the draft agreement, and considering what presumptive MACT should be. This estimate does not include time that the EPA and Maryland have put in.

There was important administrative paperwork associated with this adopt-a-MACT program. This included development of a contract and cost estimate. There were significant difficulties in meeting the EPA and State confidential business information (CBI) requirements. Wisconsin staff had to review the EPA security manual, prepare a security plan, assure consistency with State laws, meet storage requirements, and train and certify staff. This CBI problem will be a topic in the interactive session.

Another important step was consultation with affected agencies. The experts meeting was critical to development of presumptive MACT. Considerable preparation went into this meeting, getting information assembled and developing a presentation. Heinrich added that information prior to the experts meeting would have been useful. Heinrich encouraged participants in similar efforts to be flexible and to be prepared to defend information they provide to the effort. The idea of the experts meeting is to get information out -- it must be an open and interactive forum.

Documentation of the yeast manufacturing adopt-a-MACT process included the development of issue papers (e.g., on emissions averaging and area sources). This proved to be very effective. The information collected must be treated according to CBI requirements (if necessary) and this includes meeting confidential file requirements of the EPA and the States. Public files are also required for nonconfidential information. Documentation of this project also includes a summary of the experts meeting, and the preamble to the proposed rule. After proposal, the team will prepare responses to the comments.

Heinrich listed several items that worked well for the yeast manufacturing project. First, this project was chosen as a good candidate for the adopt-a-MACT process because of the limited number of facilities and only one pollutant. Certain other source categories would not be good choices.

The relationships between States and the EPA worked very well. There were also good relationships among State and local agency technical staff members. Finally, the process was quick and efficient.

Heinrich listed three items of this process that needed improvement. First was the mechanism for sharing CBI. Second was the experts meeting and consultation with affected agencies. Third was the review of public health impact when establishing a standard based on productive capacity.

The project team developed a better appreciation for the difficulties faced by State and local agencies and by the EPA. In addition, the standard will be more practical, and one that States can enforce.

Questions and Answers on the Adopt-a-MACT Process - Yeast Manufacturing

Question: What is the HAP associated with Baker's yeast manufacturing and what is the basis for the standard?

Answer: The HAP is acetaldehyde and the standard was based on pounds per ton of yeast produced, specifically 0.7 pounds per ton of yeast produced. (Jon Heinrich)

Question: How does this compare with the wood furniture negotiated rulemaking (reg neg)?

Answer: The wood furniture reg neg has gone on for 2 years. The wood furniture project was charged with producing a draft CTG and a MACT standard. Development of the CTG was successful, but development of the MACT did not go as well. Some of the reasons were that this was the first surface coating category to undergo MACT standard development and various difficult issues had to be addressed that went beyond wood furniture. One was the freedom to use a variety of HAP without any bounds on what went into the coating formulation. Another was how to address such variation in the standard. (Jon Heinrich)

Question: Would technology transfer be useful in development of presumptive MACT? Does the primary aluminum source category include industrial ventilation standards for control of fugitive emissions? That is to say, will effective local exhaust standards be required in the MACT standard to control fugitive emissions? Certain ventilation requirements are more effective at controlling fugitives. Some agencies are building local exhaust ventilation systems into dry cleaning regulations.

Answer: The primary aluminum standard addresses both primary and secondary emissions. The team is looking at the control of secondary emissions or fugitives via various work practices. There are add-on controls for fugitive emissions at some of the facilities. The primary aluminum team is looking at improved capture and hooding and increased air flow to reduce fugitive emissions. The team is not separating the limits for primary and fugitive emissions. (Steve Fruh)

Question: Both Wisconsin and Maryland have State regulations that require technology and compliance with ambient limits. Were State rules considered in setting the yeast manufacturing presumptive MACT? Did it affect the determination on presumptive MACT?

Answer: The non-CTG RACT was the overriding documentation. The facilities now comply with State HAP rules. (Jon Heinrich)

Comment: Involvement of State and local agencies was well handled in the yeast manufacturing adopt-a-MACT. The Puget Sound Air Pollution Control Agency was glad to be included in the process and felt it was effective. (Maggie Corbin - Puget Sound)

Response: The real concern was that the team did not prepare people adequately for the experts meeting.

Question: Regarding the source category list, are SIC codes listed? If this is the basis for identification of sources, it may not be accurate. (Bob Mahoney - South Carolina)

Answer: The EPA will be checking the source categories on the 7-year and 10-year lists. States should contact Fred Dimmick or Mary Sullivan Douglas of STAPPA/ALAPCO if they are interested in the MACT development programs, especially for 7-year standards. (Fred Dimmick)

Question: Would you consider this type of program for the urban area source standards? How can States involved with adopt-a-MACT deal with *ex parte* comments? (Bob Fletcher - California)

Answer: Regarding urban air toxics, the EPA has been looking at applications of this process. One is using a similar approach of pulling partners together to look at the urban air toxics problem and defining what needs to be regulated. Any MACT standards developed under the urban air toxics program are clearly candidates for partnerships. (Fred Dimmick)

Regarding State response to comments after proposal, the EPA staff could summarize comments and give those pertaining to the work the State did to the State to prepare responses. The EPA will take that response and put together the final rulemaking package. The team may reassemble to discuss what to do in the final standard, but there are still legal issues to work out prior to this practice. (Fred Dimmick)

Question: Will there be additional emission reductions from the primary aluminum MACT standards? Would the EPA ever decide not to develop a MACT standard because an industry is already controlled by another rule? (Bruce Varner - Region V)

Answer: It is possible that the EPA would decide not to develop a rule. (Fred Dimmick)

The team for the primary aluminum industry looked at this. Industry was not receptive to adopting the NSPS as the MACT, but only five lines currently comply with the NSPS. The NSPS did not address all of the processes and pollutants under consideration for the MACT, and the MACT will achieve more reductions than the NSPS. One of the first steps in development of a MACT standard should be to look at existing standards. (Steve Fruh)

Regarding the asbestos processing source category, the EPA has found that there are no major sources. The existing NESHAP provides a reasonable amount of protection. There are no other HAPs involved. Thus, the EPA will remove the asbestos processing source category and add another processing category associated with brake linings with no

asbestos. It is possible that, in the experts meeting, the group could decide that a standard is pointless. (Fred Dimmick)

Question: What has been the reaction from State air directors on State participation in the MACT process? (Tad Aburn - Maryland)

Answer: There is not a lot of support among air directors for assisting in MACT development. It would be useful at the workshop to get an idea of the level of interest in State participation. Theiler wanted feedback on whether States thought they should be involved. Theiler noted that 39 States and 33 local agencies were present at the conference, making this the best attended meeting in his 15 years in the air program. (Don Theiler - Wisconsin)

Theiler reiterated that the adopt-a-MACT process is for source categories with single or very limited numbers of sources. Larger numbers of sources warrant the share-a-MACT process where the State does not have to take the lead entirely. It is important to establish the presumptive MACT as quickly as possible, due, in part, to the section 112(g) requirements.

Theiler listed several issues important to the MACT partnership processes: confidentiality, response to comments, and resources. Wisconsin will spend about 700 hours on the yeast manufacturing standard. Washington spent slightly less on the share-a-MACT effort.

Theiler noted that air directors should be encouraged to have their State participate in these processes to help influence standards and to help with some of the unanswered questions such as compliance demonstration requirements. States need to help develop standards that will work in their State. States are able to build up their expertise.

GENERAL PROVISIONS

**Promulgated General Provisions for NESHAP:
40 CFR Part 63, Subpart A
Shirley Tabler
Office of Air Quality Planning and Standards**

**Moderators: Linda Herring, OAQPS
Sims Roy, OAQPS**

**Speakers: Tom Driscoll, EPA Region VI
Jerry Avery, Michigan Department of Natural Resources
Pat Kirsop, Wisconsin Department of Natural Resources**

Tabler presented a summary of the purpose and content of the General Provisions promulgated on March 16, 1994 (59 FR 12408). The general provisions eliminate redundancy in general information that would be included in section 112 standards. This includes, for example, requirements on construction and reconstruction, performance tests, monitoring, recordkeeping and reporting. Part 63 codifies a consistent set of procedures, criteria, and definitions that would be used to implement section 112 NESHAPs and programs, including technical administrative and legal/enforcement aspects, as well as statutory requirements and policy decisions. Part 63 also helps to maintain consistency with the EPA's past technical and policy decisions in NSPS and NESHAP programs, where appropriate.

The General Provisions consist of 15 sections; Tabler summarized the content of the major sections:

- **Section 63.1 Applicability**

The General Provisions apply to all stationary sources that will be regulated under section 112, but individual standards can override the General Provisions where appropriate. The HON and some other standards have overridden the General Provisions with regard to applicability. Each NESHAP must include a table that specifies applicable requirements from the General Provisions and cites any overriding provisions in that NESHAP.

Part 63 requirements do not supersede other more stringent standards, either Federal or State. As promulgated, sources that are not subject to a relevant standard or part 63 were required to keep a record of the applicability determination. However, this requirement will be deleted in the upcoming revisions and will be repeated in individual standards.

With regard to area sources, each part 63 rule must specify in the rule whether affected area sources are immediately subject to the permitting requirements, or whether

States may exclude affected area sources, or may defer permitting of area sources. If a standard does not specify affected area sources' responsibilities, then these sources are subject to permitting without deferral. Area sources that increase their emissions to become major sources and are therefore subject to a relevant standard must notify that they are subject to the standard.

- Section 63.4 - Prohibited Activities and Circumvention

Sources must comply with part 63 unless a compliance extension or an exemption from compliance has been approved. Sources must comply with part 63 regardless of whether those requirements have been included in a title V permit or not.

- Section 63.5 - Construction and Reconstruction

After the effective date of a promulgated standard, the construction and reconstruction provisions apply to owners or operators who construct a new source or reconstruct a source after the proposal date of the standard. Owners and operators should be aware that constructed or reconstructed-affected source are subject to standards for new sources. After an emission standard is promulgated, Administrator approval must be received in advance to construct a new major affected source, reconstruct a major affected source, or reconstruct a major source such that it becomes a major affected source that is subject to the standard.

Owners and operators subject to the requirement for preconstruction review (after the promulgation date of the standard) must submit their applications for approval and list required contents of the applications. Amendments will exempt all new or reconstructed sources that commence construction before the standard's effective date from preconstruction review.

After an emission standard is promulgated, all physical and operational changes to a subject source within the scope of the definition of "affected sources" under the relevant standard must comply with the standard. This covers physical and operational changes that may not be covered by the provisions implementing section 112(g) (e.g., at area sources) which applies to major sources.

This section maintains the owner's or operator's compliance responsibilities, regardless of the Administrator's approval of the application to construct or reconstruct. A source may not be subject to preconstruction review, but will still be subject to a MACT standard. It establishes procedures and criteria for the Administrator to approve construction or reconstruction applications that have already gone through a State preconstruction process. The EPA will be examining this provision in the upcoming review of part 63.

- Section 63.6 Compliance with Standards and Maintenance Requirements

This section establishes that operation and maintenance requirements under section 63.6 apply to all sources affected by "relevant standards," including promulgated emission standards and case-by-case MACT determinations (except where a source has a compliance extension or an exemption from compliance.) Area sources that increase their emissions such that they become major sources and are subject to the relevant standard(s) are subject to these provisions, and this section gives compliance dates for such sources. This section also gives compliance dates for new and reconstructed sources that start up either before or after the promulgation date of a relevant standard, and gives special compliance dates for sources affected by sections 112(i)(2) and (i)(7).

- **Section 63.9 Notification Requirements**

Requirements in this section apply to owners or operators of affected sources (both major and area sources) that are subject to the provisions of part 63, unless specified otherwise in a relevant standard, or unless the source is operating under a compliance extension or an exemption from compliance. After a State has been delegated authority to implement these provisions, the EPA Regional Offices may waive the duplicate submittal of notifications.

Seven types of notifications are required under the General Provisions: (1) initial notification that the source is subject to the standard (many standards are overriding the 120-day time limit and giving sources more than 120 days for this notification); (2) intention to construct or reconstruct a new source; (3) for major sources, date of commencement of construction/reconstruction, anticipated date of startup and date of actual startup; (4) intent to conduct performance test; (5) intent to conduct a performance test; (6) intent to conduct opacity and visible emission observations; and use a CMS; and (7) compliance status.

- **Section 63.10 Recordkeeping and Reporting Requirements**

The General Provisions require a 5-year data retention period for records. Files can be maintained on microfilm, microfiche, computer, floppy disk, or magnetic tape disk. Sources are allowed to reduce the reporting burden in a variety of ways, if a reduction is appropriate and the enforcement agency approves it.

There are six types of reports required: (1) results of performance tests, opacity tests, and performance evaluations; (2) periodic startup, shutdown, and malfunction (SSM) reports; (3) immediate SSM reports if such actions deviate from the SSM plan; (4) excess emissions and CMS performance report and/or summary report for sources using CMS; (5) progress reports may be required for any source granted a compliance extension; and (6) notification of compliance status (i.e., a compliance status) report.

Tabler noted that six groups have filed petitions against the EPA's General Provisions. These groups are Chemical Manufacturers Association, American Mining Congress, American Petroleum Institute, General Electric, Coalition for Clean Air

Implementation, and American Forest and Paper Association. The content of these petitions overlapped to some extent. The points that the petitioners asked the EPA to review were:

- definitions of major source, affected and new source, existing source, area source, and construction and reconstruction
- potential to emit, specifically whether only federally enforceable control requirements or limits should be considered in assessing major source status. Tabler noted that this issue has now been separated from the General Provisions.
- preconstruction review requirements
- application of standards during SSM. Petitioners were under the impression that sources had to meet the standard during SSM. While the General Provisions do not require this, individual NESHAPs could override the General Provisions.
- extension of compliance with emission standards. The CMA wanted to be able to apply for a compliance extension up until the effective date. Currently the General Provisions require a 12-month advance notice for this. The EPA is looking at this suggestion as a possible change.

Implementation of the General Provisions Tom Driscoll, Region VI

The General Provisions lay the ground work for MACT standards and should be one of the first rules delegated to the States. Driscoll recommended that States begin development now. Although the provisions may change, States with operating permit program approvals coming up may have to write these requirements in a part 70 permit fairly soon. Additionally, the General Provisions have to be implemented and enforced whether or not they are in a part 70 permit.

Driscoll also recommended that States consider taking delegation prior to part 70 approval, if possible. Region IV has tested an MOA mechanism that can work well for this. One State has asked for partial delegation such that, as MACT standards come out, they would be delegated the General Provisions just for that MACT. Driscoll pointed out that piecemeal delegation is not desirable.

Some requirements cannot be delegated: alternative monitoring methods, alternative test methods, and equivalency determinations under section 112(h).

Jerry Avery, Michigan Department of Natural Resources

The General Provisions for MACT standards are very important, more so than the general provisions for NSPS or the former general provisions for NESHAP.

Avery listed several features of the General Provisions that he felt were noteworthy, especially for other States:

- Preconstruction approval is required for new sources. Most States already have new source review and toxics programs, making this redundant. The redundancy was an issue of the law suit on the General Provisions.
- EPA addressed start up/shut down/malfunction provisions per State comments to minimize emissions during these periods.
- The General Provisions are detailed, prescriptive, and stringent. Case-by-case decisions will not be required often. This could increase title V resource needs. Michigan expects considerable numbers of violations.

Michigan would like to see full and automatic delegation, and feels that the title V delegation should be sufficient to accept all section 112 responsibilities.

Pat Kirsop, Wisconsin Department of Natural Resources

Wisconsin, like several other States cannot simply adopt a Federal standard as written, but must promulgate their own rules. The promulgation process takes approximately 18 months. Given this situation, Kirsop preferred not to promulgate rules until the General Provisions are revised. Kirsop agree that it would be useful for delegation of the General Provisions to be part of the title V delegation. In Wisconsin, establishing section 112(g) procedures is a more important issue at this time, and the General Provisions may have to wait.

Questions and Answers on the General Provisions

Question: Do States need to go through rulemaking to adopt the General Provisions before General Provision requirements in a title V permit?

Answer: Pat Kirsop noted that, to be State-enforceable, Wisconsin would have to promulgate rules. However, requirements can be put in a title V permit and be federally enforceable only.

Question: Does the Wisconsin procedure require voluntary cooperation from the source because it is not a State requirement?

Answer: Yes, Wisconsin will work with industry to reach agreement on this.

Question: What are you going to do in the interim between title V delegation and section 112(g)?

Answer: Wisconsin feels that there will not be much time between these, as they are working on 112(g) at the present time and hope to have title V delegation in January 1995.

Question: Per Tom Driscoll's remarks, does he intend for States to go through a 112(l) process to take delegation of the General Provisions?

Answer: States would not use a 112(l) process unless they are making significant changes in the General Provisions. (Tom Driscoll) the EPA does not expect that the litigation on the General Provisions will lead to significant changes. Preconstruction review will probably be the most significant area for change. (Shirley Tabler)

Question: Does EPA want States that must promulgate rules rather than adopting Federal rules to go through rulemaking now even though there will be changes later on?

Answer: deferred

Question: Are periodic shut down, start up, and malfunction plans required to be submitted or kept on site?

Answer: Under the General Provisions, they must be kept on site and do not have to be submitted. (Shirley Tabler)

Question: The dry cleaning NESHAP was promulgated before the General Provisions. Will EPA issue a table of requirements applicable to these facilities as they did for the HON?

Answer: deferred

Program Implementation Efforts

Speakers: Michele Dubow, OAQPS
Barbara Lee, Bay Area Air Quality Management District
Ray Vogel, OAQPS

The EPA program integration activities are receiving increasing attention from the EPA management, as evidenced by Administrator Browner's Common Sense initiative regarding integrated rule development across media for selected industries. From an air perspective, the Clean Air Act places multiple demands on sources, requiring program integration. Each different program (e.g., title V, air toxics, acid rain, etc.) imposes administrative as well as control requirements. The EPA's air office has the responsibility to see that these combined requirements make sense for the regulated sources, and that health and environmental goals be accomplished efficiently. The importance of this integration effort has been recognized by the Clean Air Act Advisory Committee in formation of a subcommittee on program integration. This subcommittee includes State and local agency members. The committee has met twice to date and has discussed the title V/title III interface, enhanced monitoring, and potential to emit. Future meetings will address potential conflicts among the Act programs.

The program integration effort at the OAQPS was begun in February 1994 at the long range planning meeting with the EPA headquarters, the EPA Regional, and State and local agencies present. The group noted that there may be potential for conflicting requirements for the same emission point. Conflicting requirements means potential for duplication, overlap, inconsistencies or unintended consequences. Inconsistent use of terms across programs and inconsistent review and approval processes were also discussed. To focus more on program integration, a program integration task force led by Lydia Wegman (OAQPS) and Rob Brenner (OPAR) was formed to identify issues needing further coordination or clarification, assign "champions" for resolving issues, and raise priority issues for attention and action.

The program integration task force met in March and June 1994. They have identified an initial set of issues which focus mainly on the interaction of titles I, III, and V of the Clean Air Act amendments. Contractor efforts are underway to examine several air programs to identify the potential for conflicts in administrative or control requirements, to develop a glossary of terms that will serve as a resource and help to identify conflicting terms, to prepare HAP potential to emit technical guidance, and to prepare a question/answer log for the TTN BBS to cover program integration questions. The task force plans to expand their focus to include the acid rain program and the enhanced monitoring program.

Dubow presented a summary of the status of the potential to emit project, based on the Federal perspective, acknowledging that State and local agencies may have a different perspective. She focused on mechanism issues only. Program integration was also addressed in one of the interactive sessions. Dubow explained that the EPA sent a proposed

rule to clarify when and how to limit potential to emit for hazardous air pollutants to OMB in February 1994. The rule was based on comments received on the General Provisions, which was on a court-ordered deadline. The potential to emit rule was withdrawn in June 1994 based on program integration and burden concerns. State and local agencies contended that it was inconsistent and burdensome. The EPA is rethinking the approaches and strategy, taking an integrated program approach. This is not simply a toxics effort.

Potential to emit is an important issue because the applicability of many Act requirements depends on whether a source is classified as a major source. "Major source" is defined in terms of "potential to emit." Many small sources will now be subject to requirements based on their potential to emit, when their actual emissions are very low. The definition of major source in the proposed part 70 revisions is being made consistent with the definition of "major source" in the General Provisions for air toxics sources. The definition in both cases will reflect a contiguous area under common control with thresholds of 10 or 25 tons per year potential to emit of HAP or applicable lesser quantities. For title V purposes, the site would not be broken down into SIC codes for section 112 major sources.

For the toxics programs, consistent with other programs, the General Provisions define potential to emit based on the source's maximum physical or operational capacity considering limits that are federally enforceable. Federal enforceability is meant to ensure that limits are actually included in the source's design and the sources adhere to these limits, and that the EPA and citizens can enforce violations of these consistent with the Act.

Toxics sources that would be major except for federally enforceable potential to emit limits are called "synthetic area sources" which is the toxics program's equivalent to the criteria pollutant "synthetic minor" sources. Such sources can avoid applicable requirements under the Act by taking federally enforceable limits on their potential to emit.

The EPA's current policy and regulations define the minimum elements needed to create federally enforceable potential to emit limits. One of these is practical enforceability. A yearly emission rate is not considered practically enforceable. There must be an opportunity for public and the EPA review when source-specific limits are developed. The limits must be developed through an approved mechanism. That is to say, there must be an appropriate foundation of Federal authority to create these programs, authority for the EPA to approve State programs, and State authority to implement these programs. The General Provisions at 40 CFR 63.2 include a list of federally enforceable mechanisms to limit the potential to emit.

The mechanisms in the General Provisions include Federal and certain EPA-approved State permit programs such as title V, minor source new source review, and federally enforceable State operating permit programs (FESOP); stand-alone Federal requirements such as NSPS, NESHAPs, and SIPs/FIPs; State equivalent rules approved under section 112(l); and the EPA-approved State rules designed to limit potential to emit ("prohibitory rules"). SIP-approved mechanisms that have been used to limit potential to emit historically for

criteria pollutants include minor new source review programs, FESOPs, and prohibitory rules. Minor new source review programs are applicable in most States, but can only be used upon initial construction or upon modification. Disadvantages of minor new source review permits are that they may not be practically enforceable or they may not have been publicly reviewed prior to issuance. FESOPs, while federally enforceable, are not widely available at this time. Prohibitory rules have the potential for controlling large numbers of similar sources. Efforts are underway in a number of State and local agencies to develop such rules, but none have yet received the EPA approval into a SIP.

All of the mechanisms for limiting potential to emit may have limitations with respect to their ability to regulate noncriteria hazardous air pollutants directly. The EPA's current thinking is that mechanisms approved into SIPs under section 110 authority can cover criteria and hazardous air pollutants in so far as the HAPs are criteria pollutants and where those HAPs are limited. Noncriteria HAPs could possibly be limited by hours of operation, but this issue is still under review. The EPA's current thinking is that for States to set federally enforceable HAP-specific limits on potential to emit for noncriteria HAPs would require additional approval under section 112(l).

Dubow summed up this discussion as influencing whether the mechanisms are appropriate and adequate for all sources that want to limit their potential to emit in time to avoid otherwise applicable requirements such as title V permits, MACT applicability and 112(g). Industry groups are concerned about timing of mechanisms' availability, availability by States, and uncertainty in planning for compliance. State and local agencies are concerned about the administrative burden of issuing potential to emit limits to large numbers of sources. The EPA is concerned about additional legal framework needed to expand the scope of existing programs under 112(l) and the effectiveness of existing programs for such limits.

The EPA is taking several steps to address these concerns. Mechanisms that will be available soon include amendments to section 112(l) rules (40 CFR part 63, subpart E) to approve State programs and rules to limit potential to emit of noncriteria HAPs, and source category-specific PTE limits in MACT standards. Additional mechanisms under consideration include a part 63 administrative review process, a general Federal "prohibitory rule," and specific Federal "prohibitory rules."

The EPA has identified some fundamental questions that need to be answered with regard to development of a PTE strategy. Is there a need for additional mechanisms to limit PTE? Who is responsible for development and implementation of additional mechanisms? How can existing mechanisms be revised or amended to make them more timely, shortening the approval process? How can the administrative/compliance burden be streamlined without sacrificing appropriate accountability and enforceability? What if a mechanism is not available on time? The EPA is looking for input on these questions.

Some of the factors to consider in working toward a comprehensive PTE strategy are State versus the EPA roles and responsibilities, variability of views and approaches, and the legal risk of various approaches.

Dubow summarized the presentation by listing three "take home messages": (1) some sources lack timely and applicable mechanisms for creating federally enforceable PTE limits, (2) the best combined approach is FESOP and "prohibitory rules," which should be submitted as soon as possible, and (3) State/local and the EPA cooperation is very important.

Potential to Emit - State/Local Perspective
Barbara Lee
Bay Area Air Quality Management District

Limiting PTE is important to State and local agencies because of the practical implementation issues. There are four key components to this: the number of sources, the level of source education, the small business status, and the resources from permit fees. With regard to the number of sources, Lee noted that the Bay Area AQMD has only 30 sources that are major sources based on actual emissions, but thousands that could be major based on their potential emissions. Lee also noted that small sources are often not familiar with Federal regulations and will require a large effort in source education. Permit fees often are not sufficient to meet all the needs that go into addressing many small sources, such as source education and compliance and enforcement requirements. Larger sources then subsidize smaller sources, which is only effective until there are too many smaller sources included.

Factors that influence the perspective of the regulatory agency are the size of the agency and the attainment status of the area. For small programs that are in ozone attainment areas, most of the sources permitted are very large, and small sources are not "in the system" and the agencies are not aware of what resources would be necessary to address all of the small sources.

Some upcoming programs are going to influence the way State and local agencies view limiting PTE. The urban area source program will provide more data on area sources and their potential to emit. If potential to emit is higher than currently realized and there is a lack of federally enforceable mechanisms, the EPA and States will face a difficult problem. Also, the requirements to implement permit streamlining provisions run counter to the effort of bringing detailed federally enforceable conditions down on small sources.

Potential to emit is a complicated issue and Lee encouraged that it be broken down into smaller components. Some of the components of implementation of a potential to emit program are the actual emissions of the facility, the complexity of the facility, and the control level. A facility with high actual emissions close to the threshold would be treated differently from one that is far below the threshold. Source type is also important considering complex sources with multiple emissions points versus simple sources. Large, complicated extensively controlled sources with actual emissions close to the threshold might be better handled under a synthetic minor permit, while the numerous very small sources with actual emissions well below the threshold should be handled in some other way such as a prohibitory rule.

Lee recommended finding a programmatic approach to limiting potential to emit. She also recommended that each MACT standard provide clarification on how to consider whether a source is subject to the standard, possibly not using potential to emit, but instead applying a usage rate or an equipment configuration. Finally, Lee recommended that these

efforts be integrated with other programs such as the urban area source program and the permit streamlining programs.

**Interface of Title V Operating Permits with
Section 112 Air Toxics Program
Ray Vogel
Office of Air Quality Planning and Standards**

Vogel's presentation was a preview of one of the interactive sessions. Vogel led off by discussing the problem of incorporating MACT standards in title V permits. For many MACT standards, key compliance requirements are not known at the time of promulgation, and perhaps not known until the source performs a compliance test. The process for determining compliance requirements could take 3.5 years. This is a problem because, under title V, MACT standards must be in the permit within 18 months if more than 3 years are left on the permit.

The EPA addressed this problem in the part 70 revisions by creating a two-step process for incorporating MACT standards. The first step is where a permit is administratively amended within 18 months of promulgation to include initial requirements. The second step is a second permit revision at the compliance statement deadline (i.e., at the notice of compliance status), 6 months after the compliance deadline. This process meets the requirements of title V by getting the MACT in the permit in 18 months, and also getting the compliance requirements on the permit when they are developed. Some environmental groups do not think they have enough time at the second revision to assess if the MACT standard is properly incorporated into the permit. This topic was discussed in the interactive session.

Vogel also discussed the exemption of area sources. Title V requires that all major sources subject and all sources subject to a section 111 or 112 standard must secure a permit. In the part 70 rule, the EPA has deferred the need to secure a permit for sources subject to current standards (i.e., promulgated before the part 70 rule in July 1992) for 5 years. For section 111 or 112 standards promulgated after July 1992, the EPA will address area sources in each standard. Area sources subject to new MACT standards are subject to title V unless the EPA exempts them in the MACT rule. Many area sources could be subject to title V only because of the MACT unless exempted, and so far, none have been exempted. The dry cleaning standard deferred area sources from the need to secure a permit. There may be an option in the near future to accelerate the schedule for doing the rulemaking for deferring standards promulgated before July 1992. The interactive session will discuss criteria for exemptions and deferrals. The EPA needs to consider what benefits are gained by permitting small sources.

Questions and Answers on Program Integration Effects

Question: What is EPA's current position on permits for sources that come under title V because of their potential to emit, but want to get out of the program? States could be faced with thousands of applications from sources wanting to get out of the program. Given the shortage of resources, States need some flexibility in the early years of the title V program. (Sara Laumann, Colorado)

Answer: Such sources should get out before they are required to submit a permit application (1 year after approval of the State program). State deadlines vary. A prohibitory rule might be a way to address this issue quickly. (Ray Vogel)

Comment: Another possible answer to this situation is that sources would submit a title V application, the source could either be issued a title V permit or a minor source permit, depending upon negotiations and the types of restrictions they want to take. (Joy Stanton, EPA Region VI)

Response: Yes. This would work provided the source applied by the required date.

Question: Assuming a State has submitted a FESOP program for criteria pollutants and has requested 112(l) approval, can we approve SIP programs for noncriteria HAPs? Prohibitory rules are not an option due to the long rulemaking time period. (Scott Miller, EPA Region IV)

MACT STANDARDS UPDATE

Aerospace Manufacturing and Rework Industry Mary Tom Kissell Office of Air Quality Planning and Standards

The EPA has three ongoing projects relating to the aerospace industry: the NESHAP, a CTG, and a depainting study. The subject facilities in the aerospace manufacturing and rework MACT are major sources that manufacture or rework commercial or military aerospace vehicles or components.

The emission sources controlled are cleaning operations, primer operations, topcoat operations, chemical milling maskant operations, storage and handling of wastes, and depainting (i.e., stripping) operations. Emission control provisions include emission limitations, housekeeping measures, compliant solvents and coatings (the major focus), equipment standards, and add-on control technology.

The NESHAP was proposed on June 6, 1994. The preamble appeared in the Federal Register and the rule was put on the TTN. A public hearing was held on August 15, 1994, and the public comment period was scheduled to end on September 15, 1994. An amendment notice was scheduled to be published in August or September 1994. Also proposed with the rule was Method 309 for determining a rolling balance time period for a carbon absorber. Comments show that other industries are interested in this method.

The aerospace CTG will include the requirements of the proposed NESHAP for primers, topcoats, and cleanup solvents, as well as requirements for specialty coatings, adhesives, and sealants. The EPA currently has a section 114 letter out regarding specialty coatings. The CTG is scheduled to be completed by summer 1995, coinciding with promulgation of the NESHAP.

The depainting study is a joint project between the EPA, the Air Force, and NASA. The goals of the study are to identify and evaluate non-methylene chloride depainting systems. It is scheduled to be completed by June 1995.

MACT STANDARDS UPDATE

Chrome Electroplaters Lalit Banker Office of Air Quality Planning and Standards

The court ordered deadline for the NESHAP on chromium emissions from hard chrome, decorative chrome, and chromium anodizing is November 23, 1994. The standard covers both major and area sources. The three processes covered by the standard are represented by about 5,000 sources, nationwide. Most of these sources are area sources, but some facilities are located at a major source site, making them major sources. Most of the sources are "job shops," doing electroplating for bigger companies. The EPA plans to cover the area sources under MACT rather than GACT because chromium emissions are very toxic. Thus, the potential to emit question does not arise for this standard.

The chromium electroplating MACT was proposed in December 1993. Banker summarized the technology-based standards in the proposal. The emission limit format gives the source flexibility by not requiring a specific technology. The EPA looked at the MACT floor and going beyond.

- **Hard Chrome Electroplating**

This is the major emitting source among the three. The EPA found that requirements could go beyond the MACT floor for large existing sources. All new sources and large existing sources have an emission limit of 0.013 mg/dscm, based on composite mesh-pad system. Small existing sources have an emission limit of 0.03 mg/dscm, the MACT floor, based on packed-bed scrubbers.

- **Decorative Chromium Electroplating**

The MACT floor is based on fume suppressants for chromic acid baths. Both new and existing sources have an emission limit of 40 dynes per cm. New and existing trivalent chromium baths have fume suppressants as a bath component, which is an adequate control. The emission limit for trivalent chromium baths is 55 dynes per cm.

- **Chromium Anodizing**

The emission limit for both new and existing sources is 40 dynes per cm based on fume suppressants.

Banker explained that the compliance schedule varied by type of process, with a 1 year compliance deadline for hard chrome platers, and 3 months for decorative platers and chrome anodizing.

The EPA is now considering comments on the proposed rule, which were extensive and addressed every aspect of the rule. The majority of the comments were on monitoring, reporting and recordkeeping requirements, which many commenters considered to be too burdensome. Commenters also felt that the compliance dates were too short. Commenters include State and local agencies and industry. There will likely be some revisions to the proposed rules based on the comments and data received.

Questions and Answers on the Chrome Electroplaters MACT Standard

Question: Will area sources be required to get title V permits?

Answer: Yes. Chromium is highly toxic and permits for area sources will help ensure implementation of and compliance with the standard.

Question: What emission factors were used in the chromium project? Will the EPA offer help with the impact of requiring permits for area sources? Having to get an operating permit does not reduce the impact of area sources.

Answer: Emission factors are found in the technical support document which can be found on the TTN. For hard chrome plating, the factor was 10 mg per ampere hour and for decorative chrome plating, 2 mg per ampere hour. Chromium anodizing is found in the technical support document. (Lalit Banker)

The EPA may include a sample permit in the enabling guidance that will be published after the rule is promulgated. This may help to reduce the burden on the State and local agencies. (Lalit Banker)

MACT STANDARD UPDATE

Degreasers

Paul Almodovar

Office of Air Quality Planning and Standards

The MACT standard for degreasers was proposed on November 29, 1993 at 58 FR 62566. The EPA team is now in the process of addressing comments received during the public comment period. The proposed standard covers both new and existing major and area sources of batch vapor cleaners, cold and vapor in-line cleaners, and batch cold cleaners, using any of these solvents: methylene chloride; perchloroethylene; trichloroethylene; 1,1,1 trichloroethane; carbon tetrachloride; or chloroform.

The standard subdivided the source category into six subcategories:

- Batch Vapor Cleaners
 - small, < 0.6 m²
 - medium, > 0.6 to 1.21 m²
 - large, > 1.21 to 2.51 m²
 - very large, > 2.51 m²
- In-line cleaners all sizes
- Batch cold cleaners all sizes

The proposed rule offered several compliance determination alternatives for batch vapor and in-line cleaning machine owners and operators. These were an equipment standard with work practices, an idling emission limit with work practices, or an overall solvent emission limit. The proposed batch cold cleaner requirements are being revised.

The EPA estimated that the proposed rule would achieve HAP emission reductions of 88,400 tons per year, with a net national savings of \$30 million due to reduced solvent consumption.

The degreasing MACT is scheduled to be promulgated in November 1994. A guidance document is due out in January and is being developed in cooperation with the Small Business Assistance program. It will include information on the compliance options, sample forms, and information on alternative solvents and technologies.

Questions and Answers on the Degreasers MACT Standard

Question: Will the EPA provide any assistance in source identification?

Answer: The EPA went to State data bases to identify sources during the rule development. These data bases were somewhat helpful in identifying sources. Due to the nature of this source category, identifying all sources is going to be difficult.

MACT STANDARD UPDATE

Dry Cleaning
George Smith
Office of Air Quality Planning and Standards

The perchloroethylene dry cleaning MACT was promulgated in September 1993, and the EPA is now working to implement this standard which regulates many small businesses. Because promulgation was difficult and the EPA got a tremendous number of comments, the Agency held a public meeting in New York City. Both environmental groups and industry representatives participated. There seemed to be a consensus that the standard could have required more stringent controls. Many dry cleaners have contamination problems and are facing expensive Superfund clean ups, so the industry proposed more stringent controls if they could be allowed to put together a fund for clean up operations. This provision is now in place in Florida and an amendment to the Superfund legislation is being considered to allow this trade off.

Dry cleaners refer to this trade off as "Vision 2000." It will result in better controlled sources and will save many dry cleaners who are facing clean up operations from bankruptcy.

Several State regulatory initiatives are underway: California's toxic rule is going through the 112(l) process, and New York has a regulatory negotiation underway. The California rule is more stringent than the MACT standard, and the New York rule appears that it will be more stringent than the California rule.

Questions and Answers on the Dry Cleaning MACT Standard

Question: How is the EPA planning to address the phase out of CFCs since refrigerated condensers are the main dry cleaning control technology?

Answer: The EPA is planning on letting the market handle this. The refrigerants being used are the type less likely to be phased out, similar to those in household air conditioners.

Question: What is the status of the Green Peace "green clean" proposal? Wisconsin tried to propose the EPA rule as it is, but Green Peace has been opposed.

Answer: The "green clean" process cleans with out perc. The process has not turned out as well as expected.

Question: Has the EPA developed any specifications for room enclosures for transfer mechanisms?

Answer: No, other than what is in the MACT. The EPA does not expect to see many for compliance, as there are not that many applicable sources.

Question: Does the EPA have any plans to come up with revisions or supplements to the MACT?

Answer: OAQPS is waiting to see if the Superfund amendment passes, as it will solve many of the current issues. The EPA may have to issue an amended dry cleaning rule if this passes.

MACT STANDARD UPDATE

Hazardous Organics NESHAP (HON)

Warren Johnson

Office of Air Quality Planning and Standards

The final HON was signed on February 28, 1994 and appeared in the Federal Register on April 22, 1994 (59 FR 19402). It is available on the OAQPS TTN and the background information document is available from NTIS. The EPA estimated that the HON will result in emission reductions of 500,000 tons of HAPs per year, VOC reductions of 1 million tons per year, and significant reduction in exposure to HAPs. Promulgation of the HON made the 112 pollutants covered in that standard "regulated air pollutants."

The HON consists of the following subparts:

Subpart F	Applicability for SOCM I
Subpart G	Vents, transfer, storage, and wastewater
Subpart H	Equipment leaks (a negotiated rule)
Subpart I	Applicability for non-SOCMI

One unique feature of the HON attributable to negotiated rulemaking is the existing source compliance dates for equipment leaks. Depending upon the group, compliance dates range from October 24, 1994 to October 24, 1995.

The emissions averaging provisions in the HON have been an area of controversy. Emissions averaging is limited to 20 points per plant, with an additional 5 points allowed if those emission points use pollution prevention measures. Under subpart G [40 CFR 63.112(g)], States may prohibit emission averaging.

Johnson summarized the reporting requirements under the HON. Initial notification is required within 120 days after promulgation. Sources may be granted up to a 1-year compliance extension if control cannot be achieved in time. The extension must be approved by the EPA. An implementation plan may serve as a proxy for a permit application. The plan is due 18 months before the compliance date for points that are averaged, and 12 months for non-averaged points. The notification of compliance status, consisting of performance test results and parameter ranges, is due 150 days after the compliance date. Reports on excursion data and changes are due periodically. Other reports are tied to four specific events.

The EPA has established a HON information line at (919) 541-5299. Several documents on the HON are available on the TTN, and a question/answer document is scheduled to be added soon. The EPA is working on an expert system for emission averaging.

Questions and Answers on the HON MACT Standard

Question: Was the EPA sued on the HON?

Answer: Yes, litigation was brought by the CMA and Dow Chemical, and the issues are being addressed. The EPA will be putting out a correction notice in September. The CMA's issues mostly address wastewater, and most of the Dow issues are related to equipment leaks. Some of the issues overlap with the General Provisions.

Three new notices are pending: an overall amendment to correct errors, a notice resulting from the litigation, and PTE clarification.

MACT STANDARD UPDATE

Industrial Process Cooling Towers

Phil Mulrine

Office of Air Quality Planning and Standards

This MACT standard eliminates the use of chromium compounds in cooling towers. The final rule was published in the Federal Register on September 8, 1994. Sources have 12 months to make their initial notifications and 18 months to comply. A notification of compliance status is required by the compliance date. There are no reporting or recordkeeping requirements for facilities that no longer use chromium chemicals.

Questions and Answers on the Industrial Process Cooling Towers MACT Standard

Question: Is there any benefit for a State to take delegation of this standard, especially when the State has a similar rule in effect? (Bob Fletcher, CARB)

Answer: Each State will have to evaluate and decide about taking delegation. (Phil Mulrine)

Question: Why were no other HAPs considered?

Answer: Some HAPs will be addressed in other standards. For instance, leaks going back to the tower would be covered under the HON. According to the section 114 data collected, chromium is the only HAP that is a problem at cooling towers. (Phil Mulrine)

MACT STANDARD UPDATE

Petroleum Refineries Jim Durham Office of Air Quality Planning and Standards

This MACT standard covers all 190 petroleum refineries. It was proposed in June 30, 1994 and, under court order, is scheduled to be promulgated by June 30, 1995. The structure of this MACT is similar to that of the HON in that it covers storage vessels, equipment leaks, process vents, and wastewater collection and treatment, and has emission averaging provisions.

For storage tanks, the EPA proposed two options: the HON requirements for seals on floating roofs and HON requirements for seals and fittings on floating roofs. The proposed equipment leaks provisions are similar to the negotiated rule provisions in the HON. Process vents would be required to control if the HAP content exceeds 20 ppmv, and reduce by 98 percent or to 20 ppmv, whichever is less stringent. No additional control requirements were proposed for wastewater for refineries in compliance with the benzene waste NESHAP. Emission averaging was permitted among storage vessels, wastewater and process vents. The emission averaging provisions are the same as the HON. The EPA requested comment on averaging between refineries and marine terminals.

The major industry commenters at the public hearing were the American Petroleum Institute (API), the National Petroleum Refiners Association (NPRA), and the Small Refiners Coalition. Comments and suggestions from industry include:

- API likes inter-source emissions averaging and suggested expanding it to include all co-located sources such as SOCOMI sources and truck and railcar transfers.
- API agrees with the EPA's proposal not to impose requirements for wastewater beyond those required by the benzene waste NESHAP.
- NPRA suggested that the EPA withdraw the entire proposal and reassess the cost/benefit ratio.
- The EPA should allow refineries to delay the installation of controls on storage tanks until the next scheduled maintenance. (The HON allows delays.)
- The EPA should include applicability cutoffs for process vents based on HAP concentration, flow rate, and cost effectiveness. (The HON has such cutoffs.)

Questions and Answers on the Petroleum Refinery MACT Standard

Question: Does the rule allow States to disallow ... like the HON? (could not hear on tape - Can Jim Durham fill in?))

Answer: The rule allows States to override this provision. Industry does not like this.

Question: Does this cover MTBE plants?

Answer: No, they are covered by the HON.

Question: Is risk review required, like on the HON?

Answer: Yes.

Question: Does the rule say that States do not have to include emissions averaging?

Answer: Yes.

Question: The Bay Area has refineries that are meeting the I&M requirements quarterly and leak detection and repair at 100 ppm. This is better than required under the refinery standard. Did the EPA consider these sources?

Answer: The refinery standard was taken directly from the HON, with minor changes.

Question: Regarding the suggestion that the EPA withdraw and reconsider this standard, is industry suggesting using revised correlation equation in AP-42?

Answer: No, this was simply a sweeping comment from representatives of small refineries. They feel that MACT floors are different for small refineries located in ozone attainment areas than for large refineries located in nonattainment areas.

Question: Which cost/benefit correlation equations were used?

Answer: Deferred.

Question: What was the definition of source?

Answer: The entire refinery is the source.

General Questions and Answers on the MACT Standards Updates

Question: Will there be implementation guidance documents for each MACT standard? States need this information quickly. (Joann Held, New Jersey)

Answer: The EPA is doing different things for different standards and trying to determine the best follow up activities. For complicated standards like the HON, numerous aids are being done. For a simple standard, the EPA might just do an enabling document. The EPA wants State feedback on what would be the most useful. (Linda Herring, OAQPS)

Comment: It is important to rethink including area sources in the title V program. These small sources are not posing much risk.

Response: Tim Smith noted that the rulemaking he was addressing had nothing to do with whether area sources should get title V permits or not. There are only about six source categories for which area sources are involved. The EPA would appreciate comments on this. (Tim Smith, OAQPS)

Question: Has the EPA taken a position on emissions averaging? Will it be in all of the MACT rules?

Answer: No, developers of each MACT standard will consider whether emissions averaging is appropriate. It will depend on the standard. It is not a simple thing to do.

Question: The EPA MACT regulations use emission limits and controls to reduce air toxics risks. New York and the Bay Area AQMD have also found that ventilation controls can reduce dry cleaning air toxics risks. Should the EPA also consider such measures in their MACT regulations. (Jack Lauber, New York)

Answer: Increased ventilation or various techniques of capturing emissions from the dry cleaning process and venting these emissions to the atmosphere are not considered emission control technologies. Ventilation is considered a means of transferring emissions from one point to another. Consequently, ventilation was not and is not considered an alternative or a candidate for maximum achievable control technology (i.e., MACT). On the other hand, as pointed out, ventilation can be effective in reducing risks to certain populations, such as individuals living in apartments co-located in a building with dry cleaning facilities. To this extent, State and local agencies should consider the use of ventilation where the situation seems to merit this approach as a means of reducing risk.

Implementing a MACT Standard
Charlie Garlow
Office of Enforcement and Compliance Assurance

Speakers: Umesh Dholokia, EPA Region IV
Maggie Corbin, Puget Sound Air Pollution Control Agency

Compliance assistance, compliance assurance, and enforcement are important aspects of implementing a MACT standard. Congress has noted that the EPA needs to do a better job on compliance and enforcement. The EPA is out for risk reduction and emission reduction, not collecting fines or imposing jail time, even though these are useful tools for compliance.

Congress gave the EPA better tools for enforcement, namely the better criminal enforcement, better citizen suit enforcement, administrative enforcement, and field citations. The permit program and enhanced monitoring programs will greatly help in enforcement through information gathering and "self confession."

Regarding enhanced monitoring, the enhanced monitoring provisions in MACT standards must have averaging times that make sense and will produce the kind of data that will say if a source is in or out of compliance. Monitoring results should be directly enforceable so that the EPA can take information on violations directly to court. It is important that the enhanced monitoring rule (part 64) be promulgated soon, but it only affects "older rules," that is, the existing NESHAPs such as vinyl chloride. The new MACT standards will include the enhanced monitoring concepts.

In addition to monitoring data, recordkeeping and reporting of data will be important. Some disagreement has arisen over the requirement to retain records for 5 years, but this is an important provision in cases where violations occur over a long period of time. Another common argument is that reporting provisions are too burdensome. However, reports will be a useful tool in enforcement, especially with the large number of sources involved.

During the development of MACT standards, the development team should look closely at the averaging schemes to make sure they are enforceable.

The EPA's enforcement office has prepared an enforcement strategy for the HON and is seeking feedback from State and local agencies on this strategy.

Implementing a MACT Standard-Regional Perspective
Umesh Dholokia
EPA Region II

From the EPA Regional perspective, implementation activities for MACT standards occur before and after delegation of the standard. These activities include:

1. Develop an understanding of the rule.
2. Develop an inventory of affected sources. The OAQPS generally has a list of the sources considered in the MACT standard development.
3. Inform sources of the standard.
4. Train permit writers and inspectors.
5. Review initial notifications. Dholokia noted that many dry cleaner notifications have lacked information.
6. Review compliance determinations.
7. Ensure enforcement.
8. Prepare operating permits.

Before delegation, the EPA Regional office is responsible for implementation of the standard. State/Regional partnerships can be formed at this time, taking various forms, such as joint inspections. Sources are often more comfortable dealing with State agencies.

After delegation of the MACT standards to a State, the Regional office is available to provide assistance such as joint inspections and permit review.

Contrasting implementation of a MACT standards with an NSPS or SIP, MACTs are generally more inclusive, addressing the entire source, all HAPs, multiple emission points, and equipment leaks (i.e., fugitive emissions). The MACT approach to compliance is also different. MACT standards have enhanced monitoring provisions, including continuous monitoring. An annual part 70 certification is required and records are an important enforcement tool. No grandfathering is allowed for MACT standards, as is often the case for NSPS and SIPs. Compliance activities are also different under the MACT standards, compared with NSPS and SIPs. Monitoring data can be used for compliance under MACT standards, for example.

**Implementation and Enforcement of EPA NESHAPs by a
Local Agency
Maggie Corbin
Puget Sound Air Pollution Control Agency**

Puget Sound Air Pollution Control Agency (PSAPCA) regulations are based on the following principles: tough but fair, short and simple, emphasis on local enforcement through field inspection, economic equity, principled rule development. By contrast, Corbin noted that the EPA regulations are complex and emphasize monitoring and recordkeeping and do not assume a local field presence, but rather rely on "desk enforcement." Despite these differences, the EPA and PSAPCA have common goals: to reduce toxic emissions, to ensure adequate enforcement of regulations, and to delegate/take delegation of regulations.

Delegation under section 112(l) is important to achieving those goals. In making this work successfully, it is important to realize the differing philosophies of the EPA and local agencies. State and local agencies need to reevaluate and improve their existing regulations based on information in the EPA rule. In making the NESHAPs work for their locality, agencies need to carefully consider whether to adopt the standard by reference or to change it. The EPA must be flexible, as the Agency cannot change the State and local agency philosophy. The EPA must also rely on the Regional offices which are familiar with how State and local agencies operate.

For the NESHAPs under development, Corbin encouraged the EPA to follow the five PSAPCA principles she listed, and to involve enforcement personnel during the rule development process.

Questions and Answers on Implementing a MACT Standard

Question: Will the EPA develop a penalty policy? Will the EPA change the definition of "significant violator"?

Answer: The EPA will come up with penalty policies where needed or if the general penalty policy is insufficient. The EPA is changing the definition of "significant violator."

Question: Is there a guidance document on the definition of "significant violator"?

Answer: Yes, the guidance will have a new definition of "significant violation."

Question: What about periodic monitoring?

Answer: All title V permitted sources must have periodic monitoring which is less than enhanced monitoring. Enhanced monitoring is preferable.

Comment: Periodic monitoring will be reported on a semiannual basis, but will be very similar to enhanced monitoring. Enhance monitoring will be reported quarterly.

Response: The September court ordered deadline for the enhanced monitoring rule has been pushed back to December 20, 1994.

Question: What about the enhanced monitoring SIP call?

Answer: States are required to adopt the language in the SIP call, but are not required to adopt the language in the enhanced monitoring rule in the SIP. Some State constitutions do not allow States to adopt a Federal rule until it is final, but States can base SIP changes on the permit rule which is final.

Rule Start-up and Communication Issues
Holly Reid
Office of Air Quality Planning and Standards

Joann Held
Bureau Chief, New Jersey Department of Environmental Protection

This session offered a preview of a related interactive session. Reid hailed the transfer of information that occurred at the December 1993 Brown Summit meeting where State and local agencies, headquarters the EPA and the EPA Regional offices were all equally represented. The goal of this meeting was to discuss some urgent implementation issues and to report back to the toxics task force. The task force is composed of senior management in the EPA headquarters, Regions and State and local agencies and is responsible for building effective partnerships between these groups and for addressing implementation principles. Members include Bob Colby, Don Theiler, Winston Smith, Stan Myberg, and Bruce Jordan. Participants learned three important lessons: ownership and trust, respect for differing expertise and the extensive talent among the groups represented, and the importance of taking responsibility for the recommendations.

The Brown Summit meeting resulted in 38 recommendations. A report describing actions taken on these recommendations through July 1994 is available on the TTN and on MAPS. It was the successful interactive sessions at the Brown Summit meeting that led to the decision to conduct interactive sessions at this workshop.

Reid characterized rule start-up as involving jobs that required a considerable amount of communication and negotiation skills. She described the first two issues that the Rule Start-up and Communication Issue subgroup would be discussing. The first issue was improving the workgroup process and/or MACT team communication to ensure Regional office and State and local agency participation. The appendix in the workshop notebook includes a list of active section 112 workgroups and contacts for those groups. Reid explained that the standard development process is changing. Only 25 percent of the MACT standards in the 7 to 10 year category will require the formal workgroup process. The remainder will, instead, convene informal groups that assemble relevant interests. Reid posed the question of how frequently these groups should communicate to meet each other's expectations. What types of communication will bring as much representation as possible? She cited the aerospace NESHAP as an example of standard development through a successful partnership arrangement. This team did considerable "up front" communication, including nine roundtables.

The second issue to be addressed by this subgroup in the interactive sessions is integrating implementation concerns into the MACT development process, early in the process. The subgroup will discuss the implementation checklist for writers of MACT standards, designed to bring up cross-programmatic questions. Reid pointed out that States have requested that enabling documents be available earlier than in the past.

Joann Held described the last two issues that will be addressed by the subgroup. One of those issues was the development of a communication strategy for all headquarters, Regional and State and local agency partners following the promulgation of a rule. Held stressed the need to start very early with such communication and to continue it in every step of rule development. She cited the dry cleaning rule as an example of a rule that was lacking in timely communication. At the Brown Summit meeting, participants developed a table known as the "MACT Summary Table" to use through the entire MACT development process to transmit information to the States as the standard is worked on. Staff from Georgia's Division of Environmental Protection refined this communication strategy which outlines the "what, who, when, and how" communication from prework group through implementation.

The final topic the subgroup will discuss is the identification of methods for State and local agencies to use in adopting rules in-State, once they are promulgated by the EPA. There are 32 States that cannot take straight delegation from the EPA, but must write and promulgate State rules. This is difficult, given the time deadlines in the Act. Some of these timing concerns could perhaps be addressed during development of the Federal MACT standard. States may develop memoranda of understanding with Regional offices to define how their rule-adopting process will work. The subgroup will discuss a draft MOU.

Reid asked that agencies complete a survey form on the agency burden of 112(l) submittals.

Questions and Answers on Rule Start-Up Issues

Question: What are the criteria for determining which MACT standards do not require the traditional work group process? (Don Theiler - Wisconsin)

Answer: The EPA has developed a new system of streamlining to get rules through the system more quickly. There are now three tiers for defining the necessary level of involvement across the EPA offices. Minor rules that would have very limited interest by multiple EPA offices would be tier three. There would not be a formal workgroup closure process for such rules. However, rules that affect a broad sector of the economy (e.g., the HON or the pulp and paper rule) would be tier one, and would require more formal and lengthy review. This system focuses senior management's time on the most important rules. Currently the OAQPS is deciding which rules should undergo which process. (Karen Blanchard)

Comment: Regarding enabling documents, the OAQPS wants to provide these more quickly for all standards, but sometimes it is necessary to make choices between other types of standards work. The OAQPS needs to find a way to create enabling documents as efficiently as possible.

Section 112(l) Delegation
Janet Beloin
EPA Region I

Speakers: Anthony Toney, EPA Region IV
Robert Fletcher, California Air Resources Board

In describing the section 112(l) delegation process, Beloin presented a flow chart to illustrate the various steps and options for 112(l) delegation from a State's perspective. After promulgation of a MACT standard, a State would determine if any applicable sources were located in the State. If not, seeking delegation of the standard may not be necessary. If applicable sources were located in the State, then the State would determine if it had existing rules pertaining to those sources, and if it was desirable to keep these rules. If so, then the agency could apply for delegation under 40 CFR 63.92, 63.93, or 63.94, or, if the rules were not as stringent, the agency would need to modify their rules. If a State had no similar rule in place upon MACT promulgation, and the State did not want to alter the MACT rule, straight delegation under 40 CFR 63.91 would be the way to go. On the other hand, if the State wanted to alter the MACT rule, it could seek delegation under 40 CFR 63.92, 63.93, or 63.94, if the alterations did not lower the stringency of the MACT standard. State processes for accepting delegation include automatically getting the Federal rule, adopting the Federal rule by reference, and incorporating the provisions into State rules.

The part 63 rules promulgated in respond to section 112(l) have four delegation options:

- | | |
|---------------|--|
| Section 63.91 | This is the straight delegation process. It can be combined with a part 70 submittal, as many of the resource demonstrations required are done in the part 70 submittal. The part 70 submittal should set up the process for straight delegation so that Federal rulemaking is not required for each delegation. Additional State requirements may exist, but the process will be streamlined from the Federal standpoint. Before part 70 approval, any 112(l) submittal under this option would have to undergo Federal rulemaking. |
| Section 63.92 | This rule adjustment option is used for rules that are not identical to the Federal rule, but that are at least as stringent. There are only eight allowable adjustments under this option. Federal rulemaking is required for the first 112(l) submittal, but State rulemaking is optional. Once a 112(l) submittal has been approved, no Federal rulemaking is necessary if the State has completed a public review process. |

- Section 63.93 Adjustments other than the eight allowed under 63.92 would be addressed under 63.93. Each rule must go through a separate Federal rulemaking because the MACT standard is being substantially changed.
- Section 63.94 This is the program delegation option, available after approval of a part 70 program. This option establishes a mechanism for delegation of a more stringent program without additional rulemaking. Approval of the program would have to go through Federal rulemaking.

Some of the benefits of 112(l) delegation are that the State is the primary contact after delegation, whereas before delegation, the Regional office is the primary contact; delegated standards are federally enforceable even if they are more stringent than the Federal standard; delegation helps enforceability; delegation avoids dual regulations; and delegation preserves State and local programs that are working well.

Area sources pose special questions. When area sources are subject to part 70 as specified in each MACT standard, then the title V demonstration may be adequate for straight delegation. Non-part 70 sources, where the MACT standard defers or exempts area sources, require a separate delegation request and demonstration. A statement of resources may suffice if the State already regulates similar sources. States seeking to take delegation of only part 70 sources must show that sources can be easily separated into part 70 and non-part 70 sources. Regarding separation and partial delegation, if some sources are regulated by the State and some by the Region, it can be very confusing to sources.

Region I has used section 105 grant money to encourage States to begin thinking about delegation of both part 70 and non-part 70 sources, and identifying any differences in MACT standards and State rules, if applicable. This allows the Region to plan resources.

**Questions and Answers on the
Section 112(l) Delegation Process -- Janet Beloin**

Question: Area sources have been deferred under the dry cleaning MACT, but why are they not considered part 70 sources? The EPA Regions interpret this differently.

Answer: Major sources must get operating permits. Area sources are deferred 5 years under the dry cleaning standard and are not considered part 70 sources until they are required to get an operating permit. Some Regions are trying to use section 105 money for non-part 70 sources.

Comment: Regarding area sources under MACT standards, the EPA can defer or exempt area sources.

Question: Is section 105 money available to fund non-part 70 source programs?

Answer: The EPA needs to discuss this as there seem to be conflicts.

Section 112(l) Delegation Process
Anthony Toney
EPA Region IV

Toney's presentation centered around several EPA resources available to help States seeking section 112(l) delegations:

- Pre-submittal conferences between the Regional office and the State seeking delegation are very useful and save resources because problems can be worked out early in the process.
- Section 105 grant funding, while the future of this funding is not clear, can currently be used for section 112(l) delegation of non-part 70 sources. This money can be used for contractor support or for work details.
- Guidance documents are useful for implementation and for delegation submittals.
- Case studies have been done by the OAQPS on 112(l) submittals for Texas and North Carolina. These listed impediments and items that were approvable or not approvable. They indicated that pre-submittal is very useful.
- A compilation of 112(l) submittal summaries
- EPA bulletin boards
- A question and answer publication has been done in Region IV and put on the Region IV network. The OAQPS has begun a similar document and may enter it on the TTN.
- Policy statements are available on the TTN.
- Another resource area is rotational assignments where the EPA staff work in State and local agencies.

**Section 112(l) Delegation Process:
California Perspective
Robert Fletcher
California Air Resources Board**

The California legislature adopted a law in 1983 for toxic air contaminant identification and control, and a "Hot Spots" program in 1987. Both laws were amended in 1992. California is one of 18 States with authority to directly implement and enforce a Federal standard. California law requires the State to implement the Federal rule unless the State needs to be more stringent or has a rule in place already.

Under California's existing State program, eight statewide airborne toxic control measures have been adopted, and 7,000 sources are affected by these measures. The Hot Spots program affects 30,000 sources. California has 34 local air pollution control districts. The local districts have primary responsibility for control at stationary sources, and must implement and enforce State toxic control measures. Districts may adopt additional regulations for both criteria and toxic pollutants. Half of the districts, the larger ones, have toxic new source review policies and rules.

Fletcher addressed some general issues seen in California with the delegation process. Flexibility in 112(l) review is very important, as California wants to implement their existing air toxics programs. Regarding timing, some States will use a memorandum of understanding with the Regional office to adopt the MACT standard since it takes a long time to go through the 112(l) delegation process. Finally, the EPA consistency among Regions is important.

Some issues specific to emission standards are flexibility and rule substitution. Flexibility is essential. Recordkeeping and reporting requirements will be the most difficult area to demonstrate equal stringency. Fletcher posed the question, can California do a general provisions rule on their recordkeeping and reporting showing that the California rules are equally as stringent. Rule substitution is a concern because it is very time consuming and resource intensive to prepare the 112(l) submittal.

Fletcher presented a discussion of the perc dry cleaning rule as a case study of California's experience with section 112(l) delegation. The dry cleaning MACT standard was issued by the EPA on September 22, 1993, and California adopted its standard on October 14, 1993. Thus, there were dual regulations in place, a situation the State had hoped to avoid. California's proposed standard went out before the EPA's final standard was promulgated, and communication with the EPA was somewhat hampered because of *ex parte* comment rules.

California has been working on the equivalency demonstration ever since promulgation. Communication with the EPA has been good, as both groups figure out what is needed for the delegation. There were some aspects of the EPA standard that California

chose not to change (e.g., monitoring at the carbon adsorber outlet and the frequency of recordkeeping), even though the 112(l) delegation process was made more difficult by this decision. Fletcher believes that the California rule is more stringent.

In trying to get 112(l) approval for the State's dry cleaning issues, CARB addressed general equivalency issues and technical issues. Among general equivalency issues, were the resource assessment, legal authority, expeditious implementation, and a line-by-line comparison of the requirements. CARB is looking in to trying to do one resource assessment for all MACT standards, rather than for each delegation. California lacked some legal enforcement authority for area sources, as section 112(l) requires the same criminal enforcement authority for area sources that is required for major sources under the title V permit program.

Technical issues posing difficulties included emissions comparisons for different scenarios such as phasing out vented and transfer machines, recordkeeping and reporting requirements, and inspection frequency. For all scenarios, over the life of the equipment, the California standard achieved greater emission reduction than the Federal standard. However, since the California standard called for phasing out some equipment that the Federal standard required controls on, the Federal standard showed greater emission reduction in the early years. Regarding the requirement to keep records for 5 years, California used a 2-year recordkeeping requirement or until the source is inspected, whichever is longer. CARB believes that their environmental training program for operators coupled with their recordkeeping requirements are equally as stringent. Section 112(l) requires six-month reporting, yet this is not included in the General Provisions or the MACT standard. California requires annual reporting, and the Federal standard does not require reporting.

Another technical issue was the area versus major source definitions. CARB will be submitting an equivalency request just for area sources. The CARB regulation does not have a definition of major source, which the MACT standard does, and California wants to retain that definition of major source.

Fletcher suggested several toxics new source review procedures that would simplify 112(l) delegations: resolve the potential-to-emit issue, accept *de minimis* levels as baseline, accept top-down T-BACT determinations, and substitute risk assessments for hazard ranking in an optional offset program.

There are some instances where 112(l) delegation may not work. One is alternatives to command and control. California has a risk assessment and reduction process, which is the type of requirement that is not conducive to a 112(l) command and control process. Second is where multiple State rules cover a single MACT standard. The BAAQMD has nine rules that cover the HON. Next is where SIP-approved rules address the same sources as a MACT standard, since SIP-approved rules are already federally enforceable. Finally, the EPA needs to be more flexible in the approval of State programs.

Fletcher summed up his presentation with these points:

1. Flexibility is critical to successful application of 112(l) delegation.
2. A smooth interface is needed to ensure effective toxics programs at the State and local levels.
3. Regulatory changes may be necessary to ensure a smooth interface.
4. It is essential that States and the EPA work together to identify and resolve key issues.

Questions and Answers on Section 112(l) Delegation

Question: How will California fund implementation of the dry cleaning standard? (Jack McGrogan, Pennsylvania)

Answer: The State requires local districts to implement and enforce the standards. Most districts have resources to implement and enforce, but if not the State helps. Dry cleaners are issued permits in the State, so permit fees will be available. Funds will come from 105 funds, as well as from other types of fees, such as the South Coasts' toxics fee. (Bob Fletcher, California)

Question: If dry cleaners can keep records for 2 years, why not 5 years? (Charlie Garlow, EPA OECA)

Answer: California requires weekly records and checklists. It does not seem necessary to keep these. For some it would be no problem, but the very small cleaners have a high turnover and limited space. If the administrative burden is too large, the ability to adopt stringent rules is compromised. In addition, California's emphasis is on keeping operations in compliance through good training and inspection. Different lengths of record retention time reflects a difference in philosophy between the State and the EPA. (Bob Fletcher, California)

Question: What about violations that go on for more than 5 years? (Charlie Garlow, EPA OECA)

Answer: California makes sure that sources are in compliance and does up front training to help sources achieve and sustain compliance. Extended violations should not be a problem.

Question: What about extending this process to RCRA and other cross media concerns? (Robert Todd, Texas)

Answer: Section 112(l) is specific to the Act.

Question: Regarding State submittal of a substitute risk-based program under 112(l) (under 40 CFR 63.94), what part is federally enforceable? Is the only federally enforceable component that which is incorporated in the MACT standard? (Pat Lavin, New York)

Answer: In this case, a State would submit a request for approval of a program so they would incorporate terms and conditions in the permit that were more stringent than the MACT standard. The terms and conditions incorporated in the permit are federally enforceable. (Judy Tracy, EPA OGC)

Question: Would this mean a program federally enforceable State-by-State, where one State would be more stringent than another? (Pat Lavin, New York)

Answer: Yes. This is analogous to SIP-approved programs where different limits are federally enforceable. (Judy Tracy, EPA OGC)

Question: Is it correct that dry cleaner acceptability in California is based on a risk level of 1 in 100,000, and if the residual risk is greater than 1 in 10,000 then the source would not be approved? New York modeling shows several dry cleaners at the 1 in 10,000 to 1 in 100,000 range. This is a contentious issue in New York. What is your opinion on the precedent being set when a controlled source can only get to 1 in 10,000? With this downward trend, 1 in 10,000 becomes a rallying point for other sources. (Pat Lavin, New York)

Answer: Indeed, this is a contentious issue. Two different programs would apply in California. One is the technology-based control measure requirement, which requires the maximum reduction in consideration of cost and residual risk. Some districts have new source review with a special provision for dry cleaners that lets them go up to 1 in 10,000, where other sources must meet 1 in 100,000. For existing sources at greater than 1 in 10,000, under the risk reduction audit plan program, the District requires a plan to show how the source will get below the risk level in 5 years. CARB is looking at other ways to reduce perc consumption at these sources.

Comment: In evaluating resource demonstrations for 112(l) submittals, the EPA should give States flexibility. Many States require carrying out Federal mandates, but the legislature requires rulemaking for anything that is optional, such as the non-part 70 sources.

Response: Please submit to the EPA what you consider a reasonable resource demonstration to be. (Karen Blanchard, OAQPS)

Question: We are seeking federally enforceable methods to limit PTE, and assume that 112(l) approval must be received to limit HAPs through a "general voluntary emission cap" or "prohibitory rule" made at the State or local level. The communication with the EPA so far has only addressed use of 112(l) for MACT (or 112 standards) rather than for more generic rules to limit HAPs. Can we receive guidance for this? (Lester Keel, Northwest Air Pollution Control Authority, Washington)

Answer: Guidance will be forthcoming on this issue.

Question: What happens if a State does not take 112(l) delegation for a source category because it has no sources and then a source comes into the State?

Answer: If a State does not take delegation of a Federal requirement and a source subsequently comes into the State, the source is still responsible for complying with the applicable Federal requirement.

Question: This question is in regard to non part 70 sources for generic State risk-based programs. How can delegation be approved if a State does not want source-specific rules? What will become federally enforceable? The State rule? (Brian Fitzgerald, Vermont)

Answer: A State who wishes to gain Federal enforceability of a generic State risk-based program for sources not subject to part 70 may submit this program for approval under section 63.94 of the subpart E rule. If the program meets the criteria specified in 63.94, then it becomes the applicable Federal requirement.

Section 112(g) Modifications
Kathy Kaufman
OAQPS

There are two transition periods applicable to section 112(g) requirements. The first is between the effective date of a part 70 program approval and the promulgation of the 112(g) rule. The second is between promulgation of the 112(g) rule and the effective date of the State rule. A source must comply with the 112(g) requirements once the State's title V program becomes effective. Some States' title V approval will beat the promulgation of the 112(g) rule which is scheduled for the summer of 1995. Transition period guidance is needed because the Act requires that 112(g) be implemented by the effective date of a title V program, regardless of the existence of a Federal 112(g) rule or guidance. The EPA's guidance is on MAPS on the TTN.

The transition guidance includes mechanisms for States to establish federally enforceable 112(g) limits during the transition period. In addition, it provides OAQPS' recommendations on resolving issues that will arise in case-by-case MACT determinations during each transition period. To make limits federally enforceable during the transition period, the EPA is looking at three suggested mechanisms:

1. Approval of State preconstruction permit programs to establish section 112(g) limits. Approval can occur as part of the EPA rulemaking on a State's part 70 program. Programs must meet preconstruction public review requirements in 40 CFR 51.160-166 for Federal enforceability. Programs must include a sunset provision that lasts 12 months beyond Federal 112(g) rule promulgation.
2. Approval of State preconstruction permit programs to establish section 112(g) limits under section 112(l) authority, where a State has authority to write HAP limits in its existing program. The sunset provision should also apply to this option.
3. Approval of State preconstruction permit program by "piggy backing " on part 70 permit process. This option is applicable only in a few cases. Under this option, a source can get approval for a modification, but the timing has to be right. The sunset provision should also apply to this option.
4. A construction ban for a limited period of time could be an option in States where options 1-3 do not work.

Regarding case-by-case MACT determinations during the transition period, the transition guidance included several recommendations:

1. States should take a flexible approach to case-by-case determinations, using the basis tenants of the proposed section 112(g) rule as guidance.

2. States should use *de minimis* values no higher than found in the proposed rule. Lower values would also be acceptable.
3. Regarding offsets, States can use the 112(g) proposal as guidance, but may impose more stringent offsetting conditions, if desired. The authority of section 112(g) cannot be used to prohibit offsets.
4. The EPA recommends that site specific approvals not be revisited, since section 112(g) is already an interim program. Section 112(d) MACT standards will be out before too long.

For the second transition period between the effective date of a State part 70 program and promulgation as a State rule, State interim procedures should be established with a memorandum of understanding with the Regional office and should satisfy the 112(g) rule.

Reflecting on the length of transition period, Kaufman discussed the anticipated title V approval dates nationwide. By mid 1995, most States will likely have title V approval.

Kaufman gave an overview of the 112(g) process which would be applicable to section 112 major sources after approval of a State's title V program. New construction or reconstructed sources must apply new source MACT. Modified sources, for which actual emissions increase above the *de minimis* level, must obtain offsets of more hazardous pollutants or install existing source MACT. The Act says that a modification is less than 10 tons of emissions. There is a guidance document on section 112(g) case-by-case MACT determinations on the TTN. Software is available to help with offsetting.

The section 112(g) rule was proposed on April 1, 1994. The public comment period ran from April 1 through June 30, 1994. Work group closure is scheduled for late February, and the rule would go to the OMB in mid-March for the 90-day review period. The rule is scheduled to be promulgated in summer 1995.

Questions and Answers on Section 112(g) Modifications

Question: Is a source major if its potential to emit is above 10 tons, yet its actual emissions are lower? (Don Theiler, Wisconsin)

Answer: A source is a major source if its potential to emit is above 10 tons (or 25 tons of a combination of pollutants). If a major source makes a modification, 112(g) applies. (Kathy Kaufman)

Question: What if a State has statutory requirements that do not allow offsets? (Adele Cardenas, EPA Region VI)

Answer: States can abide by their State requirements regarding offsets, but such requirements are not federally enforceable. (Kathy Kaufman)

Question: If a facility gets a federally enforceable limit on PTE (through a prohibitory rule or synthetic minor provisions) and it wants to go above that limit yet not over the major source threshold, what does the source have to do for the new limit to be federally enforceable and not a 112(g) modification? Does it have to go through the entire federally enforceable review process and public comment?

Answer: If the new limit goes above the level that would make the source a major source based on its potential to emit, then the source would have to go through 112(g). To keep sources from being subject to 112(g) when the PTE cap is changed, sources would have to go through the federally enforceable review process and 45-day public review in order to make the new cap federally enforceable. [Do you want to add to this?] (Kathy Kaufman)

Question: Colorado must have rules in place to implement 112(g). What does the EPA recommend States adopt for 112(g) rules? An emergency rule? (Sara Laumann, Colorado)

Answer: It is hard to make a recommendation in this case. Colorado could adopt the 112(g) rule into the State code, or write a new rule. (Kathy Kaufman)

Question: Explain the sunset provision.

Answer: If a title V permit program has been approved in the State and the State is implementing 112(g) through its own preconstruction program, a State has 12 months after the 112(g) rule is promulgated to start implementing the 112(g) rule. During that 12 months, a State can use its own rules to achieve 112(g) requirements. (Kathy Kaufman)

Comment: The interim period for 112(g) is very important to States. The delay in promulgating a 112(g) rule should not shift a burden to the State, as will be the case in

Colorado. The EPA needs to accept primacy in the interim period if States cannot enforce 112(g) provisions.

States feel that their comments on the 112(g) rule were not considered and that the EPA should have involved States earlier. Also, it should be noted that the effective date of a title V program is not necessarily the same as the approval date. (Bliss Higgins, Louisiana)

Response: The EPA acknowledges the problems that the States are raising. At least one industry group is considering a suit against the EPA regarding the effective date of the 112(g) provisions.

MACT Database
Susan Fairchild-Zapata
OAQPS

Several enhancements are underway for the MACT data base. The data base is supported by AIRS. The enhancements are scheduled to be completed by during summer 1995 and training will then be conducted late FY-95 thru early FY-96. Enhancements include an SCC code list for those section 112 categories for which the EPA has not started the data collection process. Sources will be identified by detailed SCC codes for all processes. This project should be completed in fall 1994 and user guidance completed by December 1994.

The EPA began on the MACT data base due to State interest in the implementation of 112(g) and 112(j) and the need for assistance with case-by-case MACT determinations. The data base is designed to pool, assimilate, and store available National data on similar sources. It would be useful for 112(g) and (j), but also 112(d). Reporting capabilities are being designed to help users determine the 12 percent floor.

AIRS was chosen to support the MACT data base, as use of an existing system and data elements seemed to be the best choice over creating a new system. Most criteria pollutant information is stored in the AIRS system, and in some cases, criteria pollutants can be used as surrogates for HAPs.

The EPA has conducted a pilot test using iron and steel foundries in 9 States. Participants entered data to test if State contributions would be consistent with the preliminary MACT floor developed by the EPA. This pilot test showed that the concept of "similar sources" is not always clear cut, and States may not be submitting data using the same underlying assumptions. The MACT floor determinations made using the data base were fairly consistent with the independent EPA determinations.

More information on the MACT data base is available on the OAQPS TTN, under <J> for AIRS and <M> for MACT Data.

Questions and Answers on the MACT Data Base

Question: What level of State participation should be considered as adequate before a source should use the MACT data base with a comfortable level of assurance that the floor has been found? Example: Assume 100 sources in 10 States available. Are 3 States and 50 sources acceptable? Is one State and five sources acceptable? (Robert Buchanan, Texas)

Answer: Probably yes; probably no.

6 Things to Remember:

- 1) Case-by-case MACT is based on available information.
- 2) Available information as we have defined it includes everything within the four walls of the State office - in filing cabinets, information systems, any databases, AIRS, etc. Does not include mandatory testing, although a State may decide to gather additional information as needed.
- 3) There will be tools for the reviewer to use in determining the sufficiency of the data:
 - (a) Bibliography - This is just like the references section at the end of a publication, and provides information or documentation used for emission estimates.
 - (b) Emission Estimate Method Code - Method used to estimate emissions.
 - (c) Estimated No. of National Sources Estimated number of sources in AIRS estimates.

The closer this number approaches 0, the more complete the database is.

Accidental Release Prevention - Section 112(r)
Craig Matthiessen, Director
Chemical Accident Prevention Staff

The major components of the Act's accidental release provisions under 112(r) are a general duty to prevent accidents and mitigate impacts, chemical safety and hazard investigation board, the EPA regulatory authorities to list substances and thresholds and establish a risk management program, and other related provisions such as the OSHA process safety management standard.

The basic tenants of the accidental release provisions are:

- prevention of accidents is an industry responsibility
- stakeholder (i.e., labor, first responders, public and States) involvement is essential -- dialogue and exchange are very valuable for solutions
- accidental release prevention must become an integral part of air toxics control
- prevention must also become an integral part of chemical emergency preparedness and response at the State and local level

The EPA promulgated the list of substances and the threshold rule, required under section 112(r) in January 1994. The list included 77 toxics and 63 flammable and highly explosive substances. Sources need to be aware of these substances to prepare to implement the rule. Current issues include explosion hazards from flammables used as fuel, flammable mixtures, and transportation.

The risk management program is required under section 112(r)(7)(B). Sources need to develop a risk management program and share it with the public. The source has two roles in this effort, to prevent accidents and to communicate. The three-part risk management program includes hazard assessment, prevention, and emergency response. In the hazard assessment, sources identify the worst case and significant releases, perform an off-site consequence analysis, and develop a 5-year accident history. The prevention program builds on OSHA process safety management. Sources are required to prepare a facility-specific risk management plan and submit it to the State, the Chemical Safety Board, and local planning entities. The plan must be available to the public. The EPA or the implementing agency must perform an audit and review of the plan and program.

The risk management program rule was proposed in October 1993. Four public hearings followed at which nearly 150 people spoke. This offered a good exchange of ideas among State and local agencies, the public, industry and environmental groups. The comment period closed February 1994 with about 1,000 comments received. A supplemental notice will be published in the spring of 1995 and promulgation is scheduled for the spring of 1996. The EPA plans to do model risk management plans.

Some of the issues raised at the hearings included technical problems with the definition of worst case, information in the plan, "tiered" approaches where requirements fit the type of the source, the role of environmental impacts, and implementation issues such as integration of accident prevention with other programs. Implementation issues will be the topic for one of the interactive sessions. The State role is an important implementation issue. Accidental release prevention must be part of the State air permit program, but title V may not cover all 112(r) sources. The EPA is looking at incentives here, such as grant funds available to States.

States will need to do several things to implement section 112(r). This includes coordinating with the SERC, deciding who in the State will manage the program, developing resources (from title V permit fees, State-specific fees, future air grants), recruiting expertise, reviewing risk management plans, and providing enforcement. Permit fees must cover the accident prevention program for part 70 sources. In recruiting expertise, States must identify staff knowledgeable in processes and in accidents.

States should have a risk management program for the following reasons: States need to be involved; the Act requires risk management plans to be sent to the States; the program offers an opportunity to coordinate State programs for clean air, worker safety and emergency preparedness and response; and it is unlawful for facilities to operate out of compliance after the effective date of section 112(r) applicability. The State is the major stakeholder and partner for pollution prevention, control of unanticipated emissions, and emergency preparedness. The risk management program can be linked to 112(g) for effective review of process modifications. Process modifications can be a real risk, and it is important to assess the process change for the potential for accidents.

Questions and Answers on Accidental Release Prevention -- Section 112(r)

Question: Maine is not an OSHA agreement State, so the Federal OSHA does the enforcement. What happens for those 112(r) facilities that are subject to title V and have a permit? Maine can enforce if the facility does not comply with the permit, but Federal OSHA wants to enforce, as well.

Answer: It is important to streamline and take away overlapping requirements and responsibilities. The EPA wants to work with OSHA so that there is no overlap in enforcement at the State level. The tiering suggestion will help in taking away the requirement that says a source would have to do the OSHA process safety management for the EPA if the source is already doing it for OSHA.

Question: Does the EPA have any definite plans in dealing with Federal OSHA on this issue? Both are Federal agencies, but have very different approaches to enforcement.

Answer: The EPA does plan to address this with Federal OSHA.

Question: How many accidental releases have occurred to date? What have the impacts been? (Michael Scott, Minnesota)

Answer: There have been several large-scale accidents over the past 10 years, both world-wide and in the U.S. In addition, smaller releases seem to occur much more often and these smaller events may be indications of a lack of attention and control by industry, which could lead to a major catastrophe. Although there have been no off-site deaths in the U.S. associated with any toxic chemical release or explosion, there have been many worker deaths and injuries, off-site injuries, evacuations and environmental damages associated with such events. For example, in May, 3 workers were killed; 1,800 residents evacuated and drinking water for thousands was affected after an explosion and fire at a Shell Chemical facility in Ohio.

Question: What percent reduction in accidental releases do you anticipate based on this program? (Michael Scott, Minnesota)

Answer: No goal has been set. Ideally, all accidents can be prevented and the EPA would like to see industry have the same objective through continuous improvement.

Urban Area Source Program
Tom Lahre
OAQPS

Speaker: Tad Aburn, Maryland Department of the Environment

By 1995, the EPA must issue a national strategy in a report to Congress, defining the 30 or more HAPs from the 112(b) list that present the greatest threat in the largest number of urban areas. The study must also identify area sources associated with these HAPs. By the year 2000, the EPA must implement a program to reduce cancer incidence by 75 percent, and for each of those 30 HAPs, list and set standards for emissions that account for 90 percent of each of the HAPs. The EPA must do periodic monitoring, modeling as appropriate and periodic reports to Congress.

In the last few years, the EPA has tried to pull together all of the existing information that related to the Act requirements for urban air toxics. The Agency looked at all of the screening studies, some ORD work, the Integrated Air Cancer Project, the Lake Michigan Urban Toxics Study, TRIS, a State and local survey, national "top down" surveys of sources and emissions, the Receptor Model Study Analysis (yet receptor models are not that applicable in studying HAPs), the six-month study, the MACT data base, the Houston-Baltimore-Chicago urban studies, emission-modeling analysis (an update of the six-month study), and ambient monitoring analysis of 25 to 30 cities.

There are several limitations in the current screening studies: limited health and ecotox benchmarks, "porch potato" assumptions about human activity patterns, incomplete emissions inventories, under representative monitoring data, weak knowledge of atmospheric forms and transformation of HAPs, and poor tools for estimating indirect exposures.

The Act requirement for a national strategy and the problems with available information has put the EPA "between a rock and a hard place." The Agency lacks scientifically creditable data (ORD's work has not been conclusive on the 30 HAPs), and faces diminishing resources, a regulatory burden of full program implementation, and outside pressure to regulate area sources.

Some of the probable urban area source HAPs are POM, 1,3-butadiene, chromium⁺⁶, benzene, and formaldehyde. These are likely based largely upon carcinogenicity. Lahre also present a list of 30 additional HAPs that are potential candidates for the UASP list.

The UASP needs support in finding information on source/emission data, exposure and risk data, and anecdotal data. Lahre asked, "give me the unusual." The EPA has considerable information on area sources such as dry cleaners and degreasers, but is looking for sources that may be more easily missed (e.g., small waste oil combustors.)

Urban Air Toxics Program -- Baltimore's Ozone and Toxics Co-Control Experience
Tad Aburn
Maryland Department of the Environment

Baltimore's participation in the urban area source study helps to illustrate what Maryland is doing in the area of program integration.

Aburn listed some of the dates important to Maryland's air toxics program:

- | | |
|---------|---|
| 1984 | Maryland began working on an air toxics program |
| 1985-87 | Baltimore Integrated Air Management Project began to look at the "big picture" for toxics, including cancer risks |
| 1986 | National Air Toxics Strategy showed urban area sources were very important |
| 1988 | Maryland adopted State air toxics regulations |
| 1990 | First major deadline for Maryland rules |
- Clean Air Act was amended, focusing primarily on stationary sources, and only to a smaller extent on urban area sources

Aburn presented information from the EPA's "Six-Month Study" on national estimated potential cancer incidence from airborne pollutants to illustrate the importance of the urban area source contribution:

- 55 percent mobile sources
- 30 percent urban area sources
- 15 percent MACT

Maryland had been trying to link its ozone program and air toxics program for some time with some delays until being able to pick that effort back up with funding from the EPA's urban area source mechanism. Combining the urban area source work with the ozone program makes sense because the ozone program is now focusing on smaller sources in urban areas. Larger sources have generally been regulated.

Maryland is setting up a toxics urban area source analysis system with some of the money the EPA has supplied. It is similar to ozone work for a SIP and includes inventory, modeling, monitoring, and a system for comparing monitoring data with modeled data. The inventory includes point sources as well as area sources, mobile sources, off road mobile sources, small stationary sources, etc. The system will allow the State to do some risk reduction/benefit screening work, control strategy analysis, and "what if" analyses.

Within the next year, Maryland hopes to complete a 112(k) mini study, using the system to determine what the most important urban area pollutants are, and what benefits are obtainable from certain control strategies being considered for ozone or toxics control program. Maryland also is looking at this program to help document or take credit for toxics benefits associated with the VOC and NO_x strategies being developed.

Some of the benefits the program is beginning to show are that regulators are beginning to address all concerns (toxics, VOCs, etc.) at once at a source, and toxics and ozone inventories are being related. It is important, as options for controlling ozone become more difficult, to maximize the benefits of control strategies.

The system can model all sources together (area sources, stationary sources, mobile sources), estimate relative exposure and risk reduction from control strategies, compare modeled data with monitoring data, and establish pollutant priorities based on monitoring and modeling.

INTERACTIVE SESSIONS REPORT OUT

Moderator: Bob Kellam, Office of Air Quality Planning and Standards

- 1. MACT Partnerships**
- 2. Administrative Effort/Paperwork**
- 3. Case-by-Case MACT**
- 4. Communications/Delegations**
- 5. Accidental Release Prevention Program**
- 6. Program Integration**

MACT Partnerships
Robert Todd
Texas Natural Resources and Conservation Commission

The MACT partnerships group began by characterizing each of the types of MACT partnerships. First is the pre-MACT review of information. This effort is short-term and intensive. The availability of the EPA funding for this effort is in question. Second is the adopt-a-MACT partnership which involves one or a few States and begins after the pre-MACT step. The third types of partnership is the share-a-MACT, which involves more States, but still a fairly small number. This partnership also begins after the pre-MACT step.

This group also addressed the question of why State and local managers would want to be involved in MACT partnerships. The most common answer was that involvement allows State and local agencies to influence MACT rules in terms of stringency, certainty, to ensure ease in implementation, and compliance methods. Participants felt that local industry would benefit from certainty, as well. Several participants viewed partnerships as "Pay now or pay more later." Some agencies noted that they get involved anyway, and the partnership is not an extra effort. One final reason was that managers in all government levels are being asked to streamline and reinvent.

The group also discussed why State and local managers may be reluctant to participate in MACT partnerships. The most common answer was that air toxics is lower priority than title V/I activities, and often resources are not available. A few participants felt that there was not a clear enough understanding, and that participating in a partnership does not fit with existing activities. One participant expressed the view that MACT development is not a State/local job, but rather an EPA job. Other reasons mentioned were that new staff do not have air toxics experience, and local political influences will make partnerships difficult.

The group took a poll concerning the "workability" of the MACT partnership program, comparing views of the staff and their bosses. The group felt fairly confident that State and local agencies would participate in setting presumptive MACT and adopt-a-MACT partnerships, with Federal funds available. However, the group felt that participation in an adopt-a-MACT partnership without Federal funds would be much less likely. Overall, the staff participants felt more confident in the partnership programs than they anticipated their bosses would.

Regarding the share-a-MACT program, the group compared the views of the EPA staff and State/local staff, and compared views of the staff participants with how they anticipated their bosses would respond. Both the EPA and States and local agencies expressed confidence that the share-a-MACT program would work with Federal funding available. State participants were almost equally as confident that such partnerships would work without Federal funding, but noted that their bosses would not share this opinion. The

EPA staff members were less confident that the share-a-MACT process would be successful without Federal funding.

The group developed an action plan to complete prior to the next STAPPA/ALAPCO meeting of air directors in October 1994. The goal of this action plan was the help "sell" the partnership program to the air directors. The action plan consisted of five main points or tasks that need to be addressed with the air directors: defining how air toxics fit in with other priorities including the reasons for establishing MACT partnerships and the impact of section 112, funding for MACT partnerships, development of a clear understanding of MACT partnerships, presenting case examples of resources needed for adopt-a-MACT and share-a-MACT, and development of a plan to get these projects underway.

The group also developed the following outline of a model memorandum of understanding:

- I. General
 - A. Purpose
 - 1. What
 - 2. How
 - 3. Benefits
 - 4. Objectives
 - B. Authority - General
 - 1. State
 - 2. EPA
 - C. Who is Committing
 - 1. Organizations
 - 2. People
 - D. Good Faith Effort Statement
 - 1. Commitments
 - 2. National Perspective
 - 3. Disclaimer
 - E. EPA Authorities Retained (Inherently Governmental Business)
- II. Administrative Responsibilities
 - A. Overriding Commitment Statement
 - B. EPA's Contributions
 - 1. Resources
 - 2. Process orientation
 - 3. Documentation
 - 4. Communication
 - 5. Section 114 authority
 - C. State contributions
 - 1. Resources
 - 2. Communication Outreach
 - 3. STAPPA/ALAPCO interface

- 4. Documentation
 - a. time and effort
 - b. technical
 - c. information collection
 - d. maintain public and CBI records
- III. Project Direction - Attach Work Plan
 - A. EPA
 - 1. Tasks
 - 2. Deadlines
 - 3. Concurrences
 - a. interim
 - b. final
 - 4. Notifications
 - 5. Administrative responsibilities
 - a. accounting
 - b. CBI
 - c. internal workgroup
 - B. States

In conclusion, Todd noted that the group members were "cautiously optimistic" about the success of MACT partnerships. The main obstacle is competing priorities for limited resources.

Administrative Effort/Paperwork
Tim Smith
Office of Air Quality Planning and Standards

The purpose of this group was to follow up on some suggestions made at the December meeting in Greensboro. This group discussed general principles and goals for recordkeeping, reporting, and monitoring; two case examples on PTE; and follow up activities.

In the discussion recordkeeping, the group discussed examples of why recordkeeping is important and examples of where recordkeeping might be excessive. Examples included cases where there was no reporting and noncompliance lasted a long time -- until a site visit or compliance test. Reports could have shown this sooner. A State concern was that recordkeeping and reporting seemed to be aimed at covering State or local agency shortfalls rather getting at the real need. One theme of the discussion became a trust and partnership issue.

The group discussed the issue of whether 100 percent compliance was the way to achieve environmental results, or if the resources spent to get to 100 percent from 98 or 99 percent might be better allocated. The group suggested using resources to foster voluntary compliance with up front training and outreach may be a better goal than trying to use records and reporting to achieve the 100 percent level. There is a trade off between resources spent for outreach and resources spent for reviewing reports. The group also discussed tiering based on size, proximity to the standard, proximity to exposed population, and actual emissions. Environmental results depend on what is emitted more than how many people comply with recordkeeping and reporting.

There are political and practical problems to requiring too many reports and records, especially because small business concerns are heard by decision makers. One EPA representative noted that the EPA's "common sense" initiative may indicate the Agency's desire to reduce the reporting and recordkeeping burden.

The group made several observations concerning reports. A large program with an active inspection program may be able to do with less reporting, as there would be little value added for a source to report soon after an inspector's visit. Continued reporting should be reduced depending on the probability of continued violations. The EPA should promote electronic communication of reports and electronic oversight where possible. Electronic reporting could also facilitate public review as well. Some group members expressed concern over punishing self-reported violations. This discourages effective communication on what must be done to comply.

The group also made several observations concerning records. The frequency of measurement should be dictated by the variability of the process. One specific issue regarding the halogenated solvent cleaning standard was whether the source had to measure freeboard every time or if a line could simply be drawn on the tank. Such examples

illustrated that some records may not be necessary at all times. Regarding the 5 year retention issue, the group felt that the time period should depend on whether someone was likely to act on those records sooner than 5 years. If so, there is less need to retain the records for 5 years.

Regarding program integration, the group noted that section 112 reports must make sense in tandem with part 70 reports. Related to 112(l) approval of State programs, the group noted that it is impossible for an agency to demonstrate that practical implementation will achieve the same emission results with fewer reports and records.

The group discussed two case examples on limiting PTE. The first was where material usage equaled emissions (*e.g.*, a paint spray booth). The second example involved control equipment. The group looked at ways to streamline limiting PTE, concluding that having every source similar to the first example go through an individual process was not a wise use of resources. In the second example, certain things must happen to make sure the device is operated and maintained properly. As the Agency streamlines certain cases, it must not lose sight of the fact that there are many instances where monitoring, recordkeeping and reporting are critical.

The group encouraged some organized follow up with regard to these issues. There should be a team approach to address these issues as a whole rather than on a standard-by-standard basis. There was support for getting source category-specific guidance on PTE calculations. Another issue the group did not discuss at length, but wanted to follow up on was the once major, always major question. One other follow up issue was the suggestion that the EPA visit certain sources that States would like to use to illustrate some specific concerns. The group suggested that issues be communicated via the TTN.

**Questions and Answers on the
Administrative Effort/Paperwork Interactive Session**

Comment: Theiler expressed concern over States worrying about self-reporting of violations. He felt that agencies need to be moving toward more self-reporting. Inherent in this is taking enforcement action on reported violations. There are now criminal penalties for false reporting. This fear may be overblown. (Don Theiler)

Response: The concern here was that self-reporting of violations might discourage a source from seeking help in complying. (Tim Smith)

Case-by-Case MACT
Susan Fields
Nebraska Department of Environmental Quality

This group divided into three subgroups which discussed data issues, resource issues, and policy issues. Training issues were also a concern in all of the subgroups.

Regarding data issues, the subgroup concluded that the EPA, States and industry must support the MACT data base. In supporting the data base, the EPA must commit adequate resources. Regions must not approve title V submittals that do not assure and commit to hardware, software, staff, and training needed to submit quality data in a timely manner. States must assign personnel, purchase hardware and software, commit to making timely submittals, and review applications critically with regard to necessary data. The MACT data base must be expanded to identify key contacts and phone numbers.

The subgroup on resource issues pointed out that the EPA needs to recognize that floors are not "doable" during the transition. Regions need to participate early in the process as partners in the case-by-case MACT process. States must assist smaller sources and share information on case-by-case MACT. The EPA needs to develop more specific and definitive guidance on grandfathering, limiting PTE before the rule, and a step-by-step process for determining case-by-case MACT. Two needs of smaller States and small sources are training (*e.g.*, APTI) and checklists. The subgroup also suggested a step-by-step guide to the interim program.

The policy subgroup identified four issues. First, the EPA needs to clarify how presumptive MACT will be established and its legal standing. Second, the group opposed excluding contemporaneous increases from the offset showing. Third, the group suggested that the EPA clarify the application of transfer technology in 112(g) case-by-case MACT determinations. Finally, the group suggested that the EPA issue interim PTE guidance.

Training was a theme mentioned in all three subgroups. Three topics were suggested for APTI workshops: an overview of procedures, a case study of the case-by-case MACT process for new versus modified sources, and offset procedures and documentation. Three topics were suggested for checklists and/or manuals: applicability, sample applications, and data entry. The final training suggestion was a "traveling data base show."

Questions and Answers on the Case-by-Case MACT Interactive Session

Question: How did the case-by-case MACT data base training go at this workshop? Users seem to be giving mixed signals about the data base. (Bruce Jordan)

Answer: The presentation gave people confidence in using the system. The confidence that is lacking is that unless there is pressure on States, the case-by-case MACT information will not be submitted and will not be there for other States. (Susan Fields)

Question: How can the EPA get States to put information in the case-by-case data base? (Lydia Wegman)

Answer: Regional Offices should be unwilling to approve title V submittals unless the submittals include a firm commitment to support the data base. This includes resources and scheduling. Withholding section 105 grant money would be another possibility. (Susan Fields)

Don Theiler posed the question of whether the EPA would be willing to withhold 105 grant money. Lydia Wegman added that this same issue comes up in regard to the BACT/LAER clearinghouse.

Susan Fields asked the workshop participants how many States are willing to let their 105 grant money be tied to participation in the MACT data base with all readily available information? Participants were not able to respond. Region II pointed out that the MACT data base is one small objective and they could not withhold all the 105 money over this issue.

A participant from Utah noted that there are so many requirements that the State must do that it would not be fair to link data base participation to approval. The information needs to be in the data base, but it should be tied to approval.

COMMUNICATION AND DELEGATION
Sheila Milliken
Office of Air Quality Planning and Standards

This group discussed several items such as improving the work group process, developing some type of communication strategy, what that strategy should look like, the State rule adoption processes with regard to delegation, what States have to do get ready to adopt rules as promulgated, the role of memoranda of understanding in the delegation process, ways to improve the delegation process, and the EPA resources as they relate to communication and delegation. The discussion was presented by three group members who focused on communication strategy, implementation strategy, and delegation process/policy issues, respectively.

Communications/Delegations Interactive Sessions, Subgroup #4

Facilitator: Chris Hall, EPA Region X

Our group met to discuss Memorandums of Understanding (aka MOU's, Implementation Agreements, IA's, Memorandums of Agreements, and MOA's) as well as other issues. Following are the issues which we believed needed to be addresses to improve communications, delegations and implementation for all agencies involved.

Problem: There is a need for better quantification of the number of MACT affected facilities within an air agencies jurisdiction. The lack of quantification will inhibit the section 112(l) delegation process since the S/L's will be unable to assure the EPA that they have the resources to properly implement, enforce and assure source compliance if they do not know the number of sources subject to the MACT standard.

Solution: Early source identification within the MACT standard development process. Section 114 info requests can be used to gather source information from trade associations, suppliers, etcetera at the onset of rule development.

WHO	HOW IS THIS INFO	WHEN
MACT lead, regional	MACT summary table	upon WG formation

Problem: A possible lack of equity between the regions regarding requirements within Implementation Agreements.

Solution: Improve communication between S/L's.

HQ	Provides a forum	ASAP
S/L's	communicate IA	As IA are drafted

Problem: Lack of resources during MACT transition period and the need for continued assistance after delegation.

Solution: Provide 105 funding for non-title 5 activities and commit to provide technical and enforcement assistance after delegation.

HQ, regions	earmark 105 funds	during annual grant
HQ, regions	commit to and	continuing

Problem: Inadequate communication between S/L's.

Solution: Increase overall knowledge of existing communication channels available to the S/L's.

STAPPA/ALAPCO, HA	Expand access to	ASAP
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Communication Strategy
Joann Held
New Jersey Department of Environmental Protection

The problem discussed by the group was that successful implementation requires good communication from the initial scoping strategy through promulgation and implementation. The solution that the group developed was a table outlining a communication strategy for MACT standard development and implementation for traditional rule development. Similar tables need to be developed for the streamlined process, adopt-a-MACT process, and the share-a-MACT process. The table should be widely distributed, including insertion in the OAQPS rule development manual so the MACT leads can follow it. All State, Local and Regional toxics contacts, as well as every work group member should also have the table.

An important part of the communication strategy is the MACT summary table. If the MACT summary table were added to the fact sheet, it would get wide spread dissemination.

Another important part of the communication strategy is the monthly STAPPA/ALAPCO conference call. State and local agencies should participate in these calls.

The communication strategy also calls for the development of a MACT implementation strategy during the period between MACT proposal and MACT implementation.

Implementation Strategy
Anthony Toney
EPA Region IV

The implementation strategy encompasses all of the resources necessary for the delegation and implementation process. Early involvement is a key in the implementation strategy. Representatives from State and local agencies, the EPA Regions and the EPA headquarters should be involved in the scoping process for the MACT standards. This will help identify resources and needs. Source identification, which is likely to be a problem, will be improved with wide involvement early in the scoping process. Connecticut has developed a source identification process and will be working with the EPA to improve source identification procedures.

The group also recommended an impact analysis to determine the impact a MACT standard will have on State and local agencies so that they can plan to meet the implementation needs. The group supported a resource analysis addressing when and how implementation must be done. Wide distribution of this information will help speed up implementation.

The group identified several types of policy guidance to assist States in training and implementation. This included an inspection checklist and an enforcement checklist. These items would be based on information the EPA has at the time a MACT standard is developed. The group also recommended a monitoring and modeling example, addressing special procedures for toxics.

Additional implementation resources the group recommended were continued section 105 funding, support for the BBS/NATICH, training, and outreach to sources. Section 105 funds are necessary to handle requirements that are not covered by the title V fees. The EPA needs to enhance NATICH, giving it new direction, yet keeping the contact information, and standard operating procedures for source identification. Specific training is necessary, especially with regard to inspections. Outreach efforts need to be enhanced to keep sources and States fully informed once the MACT standards are promulgated.

Given that OAQPS is faced with a limited budget for training, this group felt that it is important to utilize cost effective training. OAQPS has started to use satellite training as a method to train both Regions and States on MACT standards. Satellite training can be an useful and cost effective way to train State and Regional personnel.

The group recommended that the training should be more "hands on," and include actual footage from facilities. Some examples of satellite training that have shown actual facilities and regulated equipment include drycleaning and a surface coating operation. It is important to actually show the regulators what parts of the facility are being covered. Many of the regulators do not have field experience and it helps to see what the regulation is actually covering in the standard. (For example, a drycleaning machine, a spray booth, an

air spray gun, a digester) OAQPS should spend more resources producing a quality video that uses footage from the facility rather than just having the EPA personnel read from overheads.

If the satellite videos are well made, then Regions and States can use them during outreach workshops for industry. The satellite video can become a training resource for Regions and States. Another recommendation is that all Regions, States and local agencies should receive a copy of training videos. Each Region, State and local agency may want to have one person who is responsible for receiving and storing all training videos to facilitate use of this "training library." The group concluded that it is important for OAQPS to prepare quality training. However, it is equally important that Regions, States, and local agencies are aware of the training material available as well as have access to the training material.

The implementation strategy is important to ensure that resources are placed where they need to be for successful implementation.

Delegation Issues
Bob Fletcher
California Air Resources Board

The group identified two delegation issues. The first was that approvals are dependent on the EPA policy concerning minimum compliance and enforcement provisions. State and local agencies may submit rules with different compliance and enforcement provisions that are based on other rule or program provisions. The group recommended that OAQPS, OGC, OECA, and other EPA offices develop policy guidance with input from STAPPA/ALAPCO as early as possible. The OAQPS should take the lead on this.

The second issue was that there is no defined process for resolving issues prior to the formal 112(l) submittal. Timely resolution of issues will expedite the formal approval process. OAQPS should take the lead in developing an informal process for resolving issues arising during pre-submittal phase.

**Questions and Answers on the
Communication and Delegation Interactive Session**

Question: Did the group feel that there should or should not be minimum compliance and enforcement requirements? (Lydia Wegman)

Answer: The group favored having the flexibility to take into consideration all of the parts of State rules. In total, a State rule should be compared to the compliance and enforcement requirements of the MACT standard. This would mean that States and the EPA would not be dealing with a set of minimum compliance and enforcement standards. (Bob Fletcher)

Question: Is the table that is now included in MACT standards what the group had in mind? (Bruce Jordan)

Answer: Yes, it is the same table. Some fine tuning might be desirable.

Accidental Release Prevention Program
Bob Mahoney
South Carolina Department of Health and
Environmental Conservation

The goal of the 112(r) accidental release prevention program is to prevent accidents and injury to human health or the environment. This group discussed liability, resources, program development, developing expertise, and communications. These are issues the EPA is will be covering in the supplemental rule to the 112(r) rule.

With regard to liability, the group noted that the Act states that liability will not be placed on the States, and thus questioned whether State concerns over liability are real or perceived. The group raised the question of whether State acceptance of risk management plans implies approval of the plan. State and local agencies would like to have a letter stating that they are not liable. They feel that this issue needs to be elevated within the EPA, as State and local agencies are very concerned.

With regard to resources, there are still questions since the scope of the accidental release prevention program is still somewhat unknown. The funding mechanism for part 70 sources is clear, but a funding mechanism for non-part 70 sources is needed. The group mentioned long-term section 105 grant funds, and sought clarification on whether such funds could be transferred to a non-air agency. The group suggested using the existing program structure for site evaluations.

With regard to program development, the group noted that there will be delegation issues if the implementing agency is not the air agency. Such delegation will require measures such as a memoranda of agreement between agencies and notification of the EPA Regional Office.

The group listed several needs to develop expertise for this program. These include methods and models, and the EPA guidance for States, implementing agencies, and sources. There are some useful training packages available currently such as the OSHA Process Safety Management Training. Expertise also needs to be developed in risk communication and review of risk management plans and hazard analyses.

With regard to communication, the group noted the need to communicate the risks from plants. Communication among OSHA staff, SERCs, LEPCs, and the air agency will be important, as will communication between the EPA Regional Offices and State and local agencies.

**Questions and Answers on the
Accidental Release Prevention Program Interactive Session**

Question: Is the supplemental notice in response to comments on the initial rulemaking?
(Don Theiler)

Answer: Some of it is in response to comments, and some of it is where the EPA realized topics were not addressed. For instance, there were responsibilities linking 112(r) and part 70 that were not addressed in the proposed rule. (Craig Matthiessen)

Question: Does the EPA have a work group including State and local agency members for these rules? States should be involved in this process. (Don Theiler)

Answer: There is an EPA work group with Regional representation. The Regions are included to bring forward State concerns. There are no States or local agencies on the work group. (Craig Matthiessen)

PROGRAM INTEGRATION

Regina Spindler

EPA Region IX

This group's discussion focused on three areas relating to program integration: potential to emit, redundant and overlapping requirements, and the title V/section 112 interface. Different speakers present the discussion for each area. Spindler noted that, the groups discussing potential to emit and redundant requirements did not reach consensus. For the potential to emit discussion, the recommendations largely reflect State recommendations.

**Potential to Emit
Karen Granata
City of Toledo**

States need a way to address the existing, currently permitted, small sources, before the title V permit applications questionnaires are due. The group identified the following key State concerns regarding potential to emit:

1. Permitting authorities need a way to limit small sources' PTE before application deadlines for title V.
2. State resources for regulating small sources are very limited.
3. States need short-term and long-term solutions.

The group suggested that the EPA consider allowing relaxation of requirements for some interim period until long-term mechanisms for limiting PTE that meet the EPA requirements are in place. The group suggested, for example, that the EPA allow State permits that meet all criteria for Federal enforceability except public notice to be considered Federally enforceable. The group also suggested that the EPA allow State enforceable limits to limit PTE for the interim period.

In addition to the interim solutions, the group suggested, although did not all agree on, that the EPA consider these permanent steps for limiting PTE:

1. Quickly develop prohibitory rules for common small sources (*e.g.*, coating operations, paint spray booths, dry cleaners), and consider *de minimis* exemption levels.
2. Develop prohibitory rules by source category within MACT standards.
3. Establish a set of reasonable assumptions to use in calculating PTE for various types of sources. Some sources do not operate all year or at night, for instance.
4. Establish a "tiering" system, allowing criteria for Federal enforceability to vary with source size. Small sources may need recordkeeping, but not need public comment. Intermediate sources may need some monitoring and reporting system.
5. Create general permits under SIP-approved programs. There was only limited discussion of this point.

The conclusion of this discussion was that it is important to use State and local agency resources as wisely as possible and not waste time on sources that are well controlled and well documented by current programs.

Redundant and Overlapping Requirements
Dick Everhart
Jefferson County Kentucky

This group identified several areas of conflict, mostly dealing with reporting, recordkeeping and testing, rather than actual emission requirements. The group discussed three main questions:

1. How do we address existing redundant/overlapping requirements?
2. How do we minimize redundancy or overlap in future MACT standards and other regulations?
3. How do we resolve conflicts between differing Federal regulations and differing Federal vs. State/local regulations?

Examples of existing overlapping and redundant requirements that the group listed were:

1. NSPS - 3 day averaging period 95 percent level of control
CTG - 1 day averaging period 90 percent level of control
2. Modification to comply with HON triggers NSR (with offsets required) where no offsets are available
3. Several potential conflicts exist between the HON and NSPS, RCRA, NESHAPs
4. Under the pulp and paper MACT, increases in SO₂ emissions, trigger NSR review.
5. In general, overlapping/redundant monitoring, recordkeeping, and reporting requirements are the most common.

The group made several recommendations to the EPA for resolving existing redundancies, based upon what they referred to as a "common sense" initiative:

1. Recognize State discretion during the permit issuance process to consolidate applicable requirements that are not expressed in the same form.
2. Establish information sharing techniques such as a data clearinghouse for decisions that have been made.
3. Develop a mechanism for conflict resolution between Regional Offices and State/local agencies.

4. Issue national guidance (with high level of Regional/State/local input) on criteria for resolving specific types of redundancies.

With an eye toward avoiding future redundancies in future standards, the group recommended that the EPA resolve redundancies up-front as MACT standards are promulgated, addressing redundancies in the standard itself. State and local agencies should take responsibility for pointing out redundancies and suggesting resolution during the comment period.

Title V/Section 112 Interface
Mike Trutna
Office of Air Quality Planning and Standards

This group was composed of eight EPA representatives, 17 States agency representatives, and five local agency representatives. Three three main topics discussed were the acceptability of the recently proposed system for incorporating MACT standards in title V permits, permitting of area sources, and identification and prioritization of additional interface concerns.

Regarding the MACT incorporation proposal, the group had a favorable response overall. The proposed system is a two-step process. Under section 502(b)(a), title V permits must be reopened if the permit has more than 3 years left. This process and the subsequent reissuance of the permit must be completed within 18 months. The group felt that first step could be done administratively. Step 2 would consist of a subsequent permit revision which would occur after the compliance details are available after performance testing. The group felt that 18 months was sufficient time to accomplish an administrative revision, including acquiring any necessary additional legal authority. The group suggested modifying the General Provisions to require sources to send at least initial notifications by source to States, and to require initial notifications to contain "compliance schedule" milestones in a format that could be attached as an administrative amendment to the permit.

The group asked that EPA clarify the use of cross referencing so as to minimize the size of title V permits. The group registered a concern that as MACT standards are incorporated into permits, they may be superseding existing State T-BACT programs that may have been approved under section 112(l).

The second main topic addressed by this group was the permitting of area sources. In particular, the group discussed the criteria for EPA to consider in deciding whether to exempt area sources. There was a willingness on the part of State and local agencies to permit such sources, but resources were an important consideration in limiting the decision to do so. Small sources are costly to inspect and educate, even if general permits are used. The group listed these criteria for exempting area sources:

- No field presence needed (can get to manufacturers) for surveillance (*e.g.*, wood stoves)
- Short duration (*e.g.*, asbestos demo reno)
- Economic or statutory incentives otherwise exist (*e.g.*, OSHA)
- Cost to States or sources is not a criterion

The group looked for the future EPA rulemaking which would identify and make these criteria decisions on existing standards to also:

- Require State fee schedule adjustments (*e.g.*, minimum administrative fee)

- Note “exemptions” are good candidates for section 105 funding
- Take comment on whether a lessor permit issuance process and lessor permit content would be appropriate for isolated area sources (*e.g.*, only annual reporting)
- Clarify general permitting issues (*e.g.*, renewal)
- Consider rule revision to allow general permits addressing only MACT obligations of isolated area sources
- If it occurs soon, consider continued deferral of existing NSPS which are not also HAP emitters

The third topic that this group discussed was the identification and prioritization of additional interface concerns. These included:

- Section 112(g) transition issues and applicability tracking to determine if source changes did or did not trigger 112(g).
- Complete application guidance for HAPs for which the source is not regulated. The group expressed concern over the technical basis for estimates, the use of *de minimis* or trace amounts, identification of insignificant activities and liability to source owners when they sign permits.
- Interface training for permit engineers
- Potential to emit. The group suggested separating sources into those that (1) could avoid filing a part 70 application by do reporting and certification “small actuals” (retroactive enforcement if actuals ever rose above the potential emissions level that would trigger the need for a permit) and (2) must file a part 70 application when actual emissions of a pollutant are likely to exceed 75% of the major thresholds. [The part 70 permit would be subsequently issued if the permitting authority does not otherwise permit the potential to emit of the source in a federally enforceable fashion prior to the date of required part 70 permit issuance.

Questions and Answers on the Program Integration Interactive Session

Question: What is the concern over undercutting the T-BACT? (Lydia Wegman, OAQPS)

Answer: Some States want section 112 endorsement of their air toxics programs developed in the 1980s and based on T-BACT. These States expect to put their air toxics T-BACT requirements in their title V permits. Some States are fearful that earlier State decisions will be superseded and undercut when MACT standards come out that address the same sources these States addressed earlier in their T-BACT program. These States want EPA to recognize a transitional situation where the T-BACT could meet the MACT standard at least initially. (Mike Trutna)

Don Theiler suggested that perhaps this could be addressed on a case-by-case basis through the 112(l) process.

Question: How long would the interim period be for which the group made the recommendation to relax requirements for limiting the PTE? (Lydia Wegman)

Answer: The interim period would last through the first round of permits, in order to reduce the work load on permitting agencies. The group would like to avoid having sources submitting applications for permits they know will never be used. (Karen Granata)

Question: Would EPA do the prohibitory rules, rather than the rules being done by each State? (Lydia Wegman)

Answer: EPA could do one set of rules that would be federally enforceable. This would be the best use of resources. One concern is that EPA has looked at State programs in the past that States felt were enforceable, but now they are being told that these programs are not enforceable.

Questions: Explain the prohibitory rule. What would it mean for dry cleaners?

Answer: Using the example of paint spray booths, if a facility uses less than 20 gallons of paint per year, and keeps records on a monthly basis to show that it stayed below a *de minimis* level, then it would be exempt from the MACT standard. The *de minimis* level would be set at a level where the source would not be a title V source, no matter what the PTE is. (Karen Granata)

Appendices

The following appendices contain information provided by the facilitators from some of the interactive sessions:

- Appendix A: MACT Partnerships**
- Appendix B: Administrative Effort and Paperwork**
- Appendix C: Communication and Delegations**
- Appendix D: Accidental Release Prevention Program**

Appendix A
MACT Partnerships

DRAFT

Roles and Responsibilities Matrix for Partners in the MACT Partnership Process

The attached roles and responsibilities matrix (in flow chart form) was presented to the Partnership Session for discussion on the initial process of Presumptive MACT, Adopt-a-MACT and Share-a-MACT. Participants were asked during the presentation and discussions to identify what questions or supporting guidance would be necessary as they viewed the process, and indicate their comments. The interactive session produced many comments with regard to the Presumptive MACT process, do in part to the truly joint effort to arrive at a possible beginning for MACT. It is also believed that effort in Presumptive MACT results in a beneficial partnership outcome at the least cost compared to the follow up programs which do require higher commitments on behalf of the State/local partner. The comments and suggestions are compiled on the matrix table. We request and encourage continued State and local involvement in addressing and expanding on this chart and the comments. Some comments have been initially addressed and we would like participants to step forward in our effort to address the rest. For more information and assistance support, please contact either Fred Dimmick at (919) 541-5625 or Tony Wayne at (919) 541-5439.

Roles and Responsibilities Matrix for Partners in the MACT Partnership Process

MACT Partnership Process [optional process]	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Pre-MACT					<p>Initial Comments prior to Steps:</p> <ol style="list-style-type: none"> 1. A strong NSR Program needs to do Pre-MACT. ..Consistency with CBC, 112(j) Problems, Inconsistency with MACT. 2. Concerns over small versus large S/L agencies. 3. Is Pre-MACT Process the same for Adopt and Share A MACT? 4. Resources. What does this process do to ESD/OAQPS level of effort. [Basically this is in response to the hits in our level of effort support] 5. In order to sell to the State/Local Air Directors, you need to emphasize that there are: Potentially dollars from EPA, the "hammer" will fall, going to do it anyway., we would rather have a "partnership", influence the final decisions straight away.
Assign EPA Team	Make ESD staff assignments				

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Preliminary Data Investigation	Initial info gathering on source category				<p>Develop and outline Process:</p> <ol style="list-style-type: none"> 1. What guidance will be provided? A work book, and what would be the contents? 2. Can this be done by the S/L partner?
Notify ROs, S/A, Industry and Enviros of intent to Pre-MACT	Send letters to S/A, RO Air Dir, Trade Assoc, and Enviro		S/A sends message via SLAD	Trade Assoc notify constituents	<ol style="list-style-type: none"> 1. Why send out letters to the Industry at this time? [This is in order to alert them and solicit any information that they may have under a short time frame.] 2. Will this develop support for the States? 3. What about the EPA Regional Offices? 4. What kind of outreach is necessary? 5. Need to identify upfront the State Players and Id effort for the affected plants.
Partnership Team Formed					<p>S/L Outline commitment:</p> <ol style="list-style-type: none"> 1. States need to clarify who are the major state/local participants and leads. <p>Team Formed:</p> <ol style="list-style-type: none"> 1. What is truly needed here? 2. What level of funding and what items will be funded for the States by EPA?

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Identify Add'l Team Members from Interested Parties	Get verbal commitment for Pre- MACT from all partners	Notify EPA- HQ of interest	States notify S/A S/A suggests members to EPA	Notify EPA- HQ of interest	<ol style="list-style-type: none"> 1. Consult the Great Waters Mailing list for contacts. 2. Tell industries in the letters up front how it can benefit them. 3. Can we tap into industry information sources in a more significant way without tripping an alarm at OMB? [Yes. If the information that they send is voluntary. Some states have done this electronically already.] 4. Can the use of section 114 orders be a tool? 5. Again the issue of CBI needs to be addressed.
Pre-MACT Kick-off Meeting	Coordinate	Attend	Attend	Possibly attend & meet later as requested (ad hoc)	<ol style="list-style-type: none"> 1. The EPA and State leads develop source category specific action plan. Rationales. 2. Establish Weekly conference calls on Pre-MACT with eh team. 3. If an Adopt a MACT from this point on the State would have the responsibility for scheduling all Pre-MACT Meetings.

MACT Partnership Process [optional process]	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Gather Information	Get Agency data (OSW, OW, etc., MACT database); set up docket	Get info as agreed, submit to EPA-HQ	Get info as agreed, such as permit data, submit to EPA- HQ	Supply info as agreed, submit to EPA-HQ	<p>Literature and Other State Searches:</p> <ol style="list-style-type: none"> 1. Include other Region or offices in the information search. 2. How can the MACT Database be used in the data development stage? 3. Give some thoughts on how the MACT Database effort can help you to communicate this. 4. Include the regions for relevant source categories, States to obtain additional data. 5. Include a search with the Great Waters Program office and the offices of the Gulf of Mexico, Chesapeake Bay operations.
Distribute Information	Copy info and distrib to co-regulators				

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Assess Data Quality Meeting and Develop Strategy to Fill Gaps	Coordinate meeting of Co-regulators to review info, assess its quality, and identify additional data collection needs	Review info and attend meeting	Review info and attend meeting		<p>Coordinate with Selected Offices:</p> <ol style="list-style-type: none"> 1. What is the level of coordination necessary between the states and EPA? 2. Lawyers may often slow the work progress. What understanding of the process and results does the OGC have at this point? 3. Again consult with Great Waters program. <p>Identify Data Gaps (State):</p> <ol style="list-style-type: none"> 1. Can States obtain other State data on sources? [As long as the other State voluntarily provides such information, there is no legal restriction.] 2. The participants should specify certain parties to gather the information. <p>G. Schedule and attend Site Visits:</p> <ol style="list-style-type: none"> 1. How does EPA assure state participation? Is it through funding?

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Fill Data Gaps (possible Site Visits)	Coordinate data collection; coordinate site visits	Supply data as requested	Supply data as requested; coordinate site visits	Supply data as requested; coordinate site visits	<p>Gather Additional data:</p> <ol style="list-style-type: none"> 1. Will the MACT and Generic data bases be continually updated? [The MACT Data base should be a living database used and maintained by and for the State and local agencies. The EPA is busy getting the system in place but will primarily be a user. The Generic database maybe revisited do to the nature of the information. Specifically, as the categories for Presumptive MACT are acted on the partners from the State or local agency would be providing most of this information that does not reside in the MACT database (permit information, rules, other?).] 2. Who's responsibility is it to populate the database? EPA? or the State? [The MACT Database is to be populated by the States and local Agencies.] 3. Most states will not be able to update the database. [The limitations and walls to enable input need to be explored for better National communication of this information among the regulators.] 4. It [Presumptive MACT] maybe just a legal safety net. [No. There is no legal ramifications with the Pre-MACT process or decision.] <p>Gather Additional data:</p> <ol style="list-style-type: none"> 1. How does one get and transfer the technology data? 2. What is the policy when there is no data to be gotten? <p>Perform any analysis needed (EPA):</p> <ol style="list-style-type: none"> 1. How are we going to assure proper QA/QC on industry data? 2. Will Technology transfer be thoroughly reviewed and

MACT Partnership Process [optional process]	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Data Analysis, Formulating Rationale	Analyze data and formulate potential Pre-MACT rationale	Analyze data and formulate potential Pre-MACT rationale	Analyze data and formulate potential Pre-MACT rationale		Determine Initial Pre-MACT: 1. To "shunt out" Why would not the State just say the max control is the one for MACT regardless of the floor? Let this drive the information to industries and to EPA. 2. Where do you draw the line on alternative processes in the MACT determination? 3. Just let the "hammer" fall. 4. How will the political influences be approached at the State level in building consensus with EPA when we use the "Top Down" approach?
Consensus Meeting of Co-regulators (Select Pre-MACT, Reg Route, Formulate Questions, Plan Roundtable)	Coordinate and lead consensus building	Attend and form consensus	Attend and form consensus		Ratify Pre-MACT (State): 1. Would this be management of the S/L agency that is participating or management of a larger group, e.g., STAPPA/ALAPCO? Round Table: 1. Did we include all the sources that would be affected?
ESD Director's Ratification	ESD lead briefs Director; Director confirms with co-regulators	Assist in briefing ESD Director	S/L lead briefs S/L (and S/A) Management. S/L Mgmt confirms with ESD		

MACT Partnership Process [optional process]	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Develop Briefing Package of Consensus Results	Develop material to present at Roundtable; Document Consensus; send to Roundtable participants	Assist in developing Roundtable materials	Assist in developing Roundtable materials		
Roundtable Meeting with Industry and Enviro	Present consensus results & seek feedback	[Attend and assist presentation]	[Attend and assist presentation]	Review Roundtable material, attend and present viewpoints	
[Co-regulator Reassessment]	[Coordinate Pre-MACT reassessment]	[Attend and provide input]	[Attend and provide input]		
Document Pre-MACT	Formalize Pre-MACT findings & summarize public input	[Assist EPA-HQ lead]	[Assist EPA-HQ lead]		Determine Final Pre-MACT: 1. There should be a reality Check...."Does this Pre-MACT help clean the air?" [It is anticipated that at the "consensus or experts meeting" that such a reality check can be accomplished.] 2. The stringency of presumptive MACT should not be biased in either direction, as the finding relates to the floor. 3. Is the final Pre-MACT and emission limit or a technology?

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Pre-MACT Publication/ Communication	Put Pre-MACT findings on TTN, MAPS, docket	[Assist EPA- HQ lead]	S/A put Pre- MACT findings on SLAD	[Publish Pre- MACT findings in Trade/Enviro Journals, etc.]	<p>1. The Presumptive MACT results should be placed on the TTN and elsewhere.</p> <p>2. Should the results of Pre-MACT be published in the Federal Register? [Currently the legality of Presumptive MACT is not an issue. Presumptive MACT is an initial identification of what MACT would be at this time but is not in anyway required to be MACT. Therefore, the publication in the Federal Register is not anticipated at this time.]</p>
ADOPT/SHARE- A-MACT					
Form Work Team	Seek partners & interested intra- Agency WG members (depends on Tier); contact STAPPA/ ALAPCO, trade assoc, enviros	Volunteer, respond to EPA-HQ	S/A sends message via SLAD; S/L volunteer, respond to S/A	Volunteer, respond to EPA-HQ	<p>1. Encourage/ support enviros to form watchdog teams, if they are truly interested.</p> <p>2. Team should get considerable upfront organization structure so team members clearly know roles and know they are backed-up by each other.</p>
MACT Process "Primer"	Deliver primer to Work Team	Attend Primer	Attend Primer	Attend Primer	<p>1. Should be generic guidance, not new stuff created for each standard or project.</p>
Partnership Agreement (PA)	Work with OGC to construct and ratify PA; identify <u>lead</u> and <u>support</u> for all work plan tasks; build and maintain infrastructure	Work with EPA-HQ to construct PA; agree to lead or support	Work with EPA- HQ to construct PA; agree to lead or support	Work with EPA-HQ to construct PA; agree to lead or support	<p>1. Link workplan to ESD tracking system, so all can follow progress.</p> <p>2. The Memorandum Of Agreement should be as standardized as possible to limit negotiation points.</p> <p>3. Should contain a generic manual.</p> <ul style="list-style-type: none"> o put project tracking on MAPS o standardize project tracking system o PA level of commitment: what's the recourse for defaulting?? o PA must consider the lack of state funds

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
	LEAD		SUPPORT (always includes guidance and ongoing technical and policy review by EPA-HQ)		
Review Pre-MACT Findings & Identify Data Gaps	Coordinate Pre-MACT review and develop plan to fill data gaps		Review Pre-MACT and develop plan to fill data gaps		o QA/QC data used in Pre-MACT analysis
Supplemental Data Gathering (including site visits and testing)	Coordinate supplemental data gathering; compile information		Assist in supplemental data gathering; submit to lead		
[Public Forum on Data]	[Coordinate forum and present data collection efforts and available data; seek feedback]		[Assist lead as necessary]		
Document Supplementary Data Collection	Document supplementary data collection; update docket		Assist lead as necessary		
Review and Revise Pre-MACT Analysis o categorization o approach for developing MACT floor o analyze data, determine MACT floor and additional regulatory options	Review, revise, and supplement Pre- MACT analysis (if any) to determine 1) approach to categorization, 2) approach for developing MACT floor, 3) MACT floor and additional regulatory options		Assist lead as necessary		
ESD/OAQPS Concurrence	Brief ESD/OAQPS Director on proposed revisions to Pre-MACT		Assist lead as necessary		EPA must not overturn State lead recommendations very often - this step should be defined as management endorsement of a team decision and should not involve "position taking" on part of EPA, S/L, and Stappa.
Document Pre-MACT Revisions	Document revisions to Pre-MACT		Assist lead as necessary		
[Public Forum on MACT Determinations]	[Coordinate forum and present changes to Pre-MACT findings; seek feedback on MACT and implementation issues]		[Assist lead as necessary]		

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Impacts Analysis o emission reductions o secondary impacts o costs o economic impacts	Perform impacts analyses- EPA HQ makes certain a national perspective is maintained		Assist lead as necessary		
Consensus Meeting of Co-Regulators-MACT Selection	Coordinate and lead consensus building	Present findings and recommendations	Present findings and recommendations		EPA must not overturn State lead recommendations very often - this step should be defined as management endorsement of a team decision and should not involve "position taking" on part of EPA, S/L, and Stappa.
ESD/OAQPS Concurrence	Brief ESD/OAQPS Director on analysis results & recommended MACT; select MACT	Assist with concurrence briefing	Assist with Concurrence briefing		Level of EPA commitment to endorsing S/L recommendations should be defined in the MOA.
Draft Proposed Rule & Preamble & Addresses Implementation Issues	Lead drafts proposed rule and preamble and addresses implementation issues	Lead drafts proposed rule and preamble and addresses implementation issues	Lead drafts proposed rule and preamble and addresses implementation issues		
[Public Forum on Draft Proposed Rule and Implementation Issues]	[Coordinate forum and present rule and implementation issues; seek feed-back]	[Assist EPA-HQ as necessary]	[Assist EPA-HQ as necessary]	[Attend and provide feed-back]	
Final Proposal Package	Prepare proposal package; update docket	Assist EPA-HQ as necessary	Assist EPA-HQ as necessary		

MACT Partnership Process (optional process)	Comments from Air Toxic Workshop			
	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ALAPCO (S/A)	Industry or Enviro Groups
Agency Review and Decision	Prepare and track submittal; meet with Agency and OMB officials as necessary	Assist EPA-HQ as necessary	Assist EPA-HQ as necessary	
Proposal	Publicly recognize significant partner contributions; hold public hearing		Review proposal and submit official comments	Review proposal and submit official comments
	LEAD		SUPPORT (always includes guidance and ongoing technical and policy review by EPA-HQ)	
Summarize and Develop Response Plan for Public Comments	Organize and summarize public comments; develop a plan to address comments and make respondent assignments		Assist lead as necessary	
Respond to Public Comments o additional data collection o additional analysis	Coordinate and prepare comment responses; coordinate collection and analysis of additional data		Assist lead as necessary; submit comment responses to lead	
Recommend Proposal Revisions	Formulate and document recommended revisions to proposed rule; distribute to co-regulators		Assist lead as necessary; review recommended revisions	
Consensus Meeting of Co-Regulators--Proposal Revisions	Coordinate and lead consensus building	Present findings and recommendations	Present findings and recommendations	Consistency between final rule and Pre-MACT, 112(j), and 112(g) is important.
ESD/OAQPS Director Concurrence	Brief ESD/OAQPS Director on recommended rule changes; select final rule	Assist with concurrence briefing	Assist with concurrence briefing	EPA and S/L leads need to posture themselves to respond to Management comments

MACT Partnership Process (optional process)	EPA Headquarters	EPA Regional Offices	States & Locals (S/L) and STAPPA/ ALAPCO (S/A)	Industry or Enviro Groups	COMMENTS FROM AIR TOXIC WORKSHOP
Draft Final Rule and Preamble	Lead drafts final rule and preamble	Lead drafts final rule and preamble	Lead drafts final rule and preamble		
[Public Forum on Draft Final Rule]	[Coordinate forum and present rule changes; seek feed- back]	[Assist EPA- HQ as necessary]	[Assist EPA-HQ as necessary]	[Attend and provide feed- back]	
Final Promulgation Package	Prepare promulgation package; update docket	Assist EPA- HQ as necessary	Assist EPA-HQ as necessary		
Agency Review and Decision	Prepare and track submittal; meet with Agency and OMB officials as necessary				
Plan Implementation Activities	Lead plans implementation activities	Lead plans implementatio n activities	Lead plans implementation activities	Assist lead in planning implementa- tion activities	
Promulgation	Publicly recognize significant partner contributions; announce implementation activities				
Implementation Activities	Coordinate implementation activities	Assist EPA HQ as necessary	Assist EPA-HQ as necessary	Assist EPA- HQ as necessary	

The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) cannot at this time support the regulatory negotiation document. The associations have come to this decision following a long period of participation in the negotiation and considering our longstanding concern about the use of emissions averaging as a means of compliance with MACT standards. The following are some of the reasons we have come to this conclusion.

The wood furniture coating NESHAP contains a "one-number "approach that would allow industry flexibility in achieving compliance with MACT. The one-number approach would apply 1) across an entire facility to all emission points, without regard to the dispersion characteristics of each point and the potential increase in risk to nearby residents; 2) to processes that are different in the coatings and coating technologies they use; and 3) to all HAPs, without regard to their relative toxicity. STAPPA and ALAPCO is concerned about the success of the proposed NESHAP in insuring that the risk to public health is not increased due to the amount of compliance flexibility proposed.

Eleven HAPs of potential concern have been identified in the Formulation Assessment Plan (FAP) provisions of the NESHAP. In the FAP provisions, increases in emissions of any of these HAPs of potential concern above an established baseline are subject to state and local agency review with certain exceptions. STAPPA and ALAPCO support all these exceptions except for the increased production exception industry desires.

In this exception, industry has asked that increases in emissions of these eleven HAPs be allowed if they are due to increased production and the coatings responsible for those emissions are applied as efficiently or more efficiently than before the production increase occurred. The ability for a source to increase emissions of HAPs, no matter what the reason, without the opportunity for a state or local agency to review those increased emissions for impacts on human health is an important issue that STAPPA and ALAPCO are greatly concerned about.

STAPPA and ALAPCO has offered a number of alternatives during the negotiation to limit emission increases to allow only those that did not increase the likelihood of adverse human health effects. These alternatives have not been acceptable to the full committee. Since the entire format of the NESHAP rests on the one-number approach and STAPPA and ALAPCO have clearly and consistently insisted that there be guarantees that this standard protect public health (or at least did not potentially increase risks), STAPPA and ALAPCO cannot endorse the one number approach without guarantees that increases in emission of HAPs of potential concern can receive scrutiny by state and local agencies.

The trends report also is extremely important. One of the main compliance methods for this source category is solvent substitution of chemicals not contained in the Clean Air Act's list of 189 HAPs. STAPPA and ALAPCO have expressed concern over the toxicity of the substituted solvents. In order to assess the impacts on the public, permitting authorities must know which non-HAP solvents are substituted into these coatings, and if these substitutes are more toxic than the chemicals that they replace. Accordingly, if the

trends report does not include non-HAPs, we cannot support the NESHAP.

Finally, STAPPA and ALAPCO believe that compliance with the NESHAP limits must not be accomplished with MSDS sheets, but with certified product data sheets. These list HAPs in amounts below 1 percent and are consistent with the data obtained through Method 311. Use of MSDS sheets could allow a source to be out of compliance with the NESHAP limit, yet not be required to report any HAPs in the coating if multiple HAPs are present in a coating but each represented less than 1 percent of the total weight (or volume). Therefore, the use of MSDS sheets to determine compliance cannot be allowed.

MACT PARTNERSHIPS

- a summary paper -

August 29 - 31, 1994 ♦ Washington Duke Inn, Durham, NC

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PREFACE

This summary paper was compiled from draft material being prepared by staff within the Emission Standards Division (ESD) of EPA's Office of Air Quality Planning and Standards. The material is being created to help communicate the concepts behind the emerging MACT Partnerships program as currently understood by ESD staff. This partnership program originated in a meeting of EPA and STAPPA/ALAPCO managers in December 1993 and was further developed by EPA and STAPPA/ALAPCO representatives in a planning workshop in February 1994. The concepts as articulated in the enclosed material flow from these earlier discussions and reflect the results of a working retreat held by ESD staff to further define the MACT Partnerships program. This material is offered as one way to inform EPA, State and local air pollution control managers and staff about the MACT Partnerships program. Comments are welcome (encouraged); they should be sent to Fred Dimmick at EPA or to Mary Douglas Sullivan at STAPPA/ALAPCO.

Background

Section 112 of the Clean Air Act (CAA) requires EPA to promulgate MACT standards on a strict schedule. Thirty-nine more MACT standards must be promulgated by November 1994, 43 more by Nov 1997, and an additional 87 by Nov 2000. Section 112 (j) of the CAA contains the "hammer" provision that, if EPA fails to promulgate federal standards, the states will then be required to establish standards individually--using a case-by-case determination of what the federal standard would have been. In addition to the 112(j) requirements, Section 112(g) also requires "case-by-case" determinations when a major air toxics source constructs, reconstructs or makes a modification before a federal MACT standard has been set and after the State has a Title V permit program.

Both 112(j) and (g) will require substantial information and a lot of work by the state and local agencies as well as industry and environmental interests. Thus there is a strong incentive for collaboration among EPA, State/locals, industry and environmentalists to work together to promulgate the standards on schedule and to gather information for 112(g) "case-by-case" MACT determinations.

Issue

The EPA is currently behind schedule on a number of 1994 MACT standards and has had to put many of the 1997 MACT standards on hold due to budget reductions. In order to meet both the seven and ten year deadlines, EPA must develop new approaches to streamline the standard setting process and to leverage its limited resources. To that end, the Agency is currently working on a new process for developing MACT standards that will involve a partnership with states, industry, and environmental organizations.

This partnership is founded on the mutual interests of all the major stakeholders in the air toxics program. No one wants permit hammers to fall except as a last resort. Everyone would like to make the "case-by-case" MACT determinations quickly and in a manner that ensures they will be acceptable to all interests. For many source categories for which MACT standards are required, State and local agency personnel have the expertise, information and desire needed to develop MACT standards. In addition, industry personnel are clearly capable of developing MACT standards. The EPA can help States and industry avoid the difficulties of "case-a-case" MACT determinations by facilitating the development of a presumptive MACT through a consensus-based process involving all the stakeholders. In doing so, EPA will accelerate its our work towards getting MACT standards out on time.

This MACT Partnerships program as currently envisioned will begin with two main steps: a State/local-EPA experts meeting and then consultations with industry, environmental and other interests. Both EPA and state officials will serve as experts to develop a "presumptive MACT standard" based on available information. This presumptive MACT standard will then go to a consultation stage where industry and environmental groups will be invited to comment on the selected MACT. After this consultation, EPA and the potential partners will determine how best to complete the development of the standard.

We envision three basic regulatory development processes. In all cases, EPA would eventually propose and then promulgate the MACT standard. If there are few sources or if a state or group of states wishes to lead data collection and analysis, then the "adopt-a-MACT" path will allow EPA to contract with a state to take on the job. The "share-a-MACT" path will allow states, industry or both to share with EPA the responsibility for developing the underlying data and analysis for the rule. For those cases where no suitable partners can be found, the "streamlined-traditional" path is the last alternative where EPA goes through a streamlined process of the traditional rule development. No matter what path is chosen, almost all standards would go through the experts meeting and also the second consultative stage.

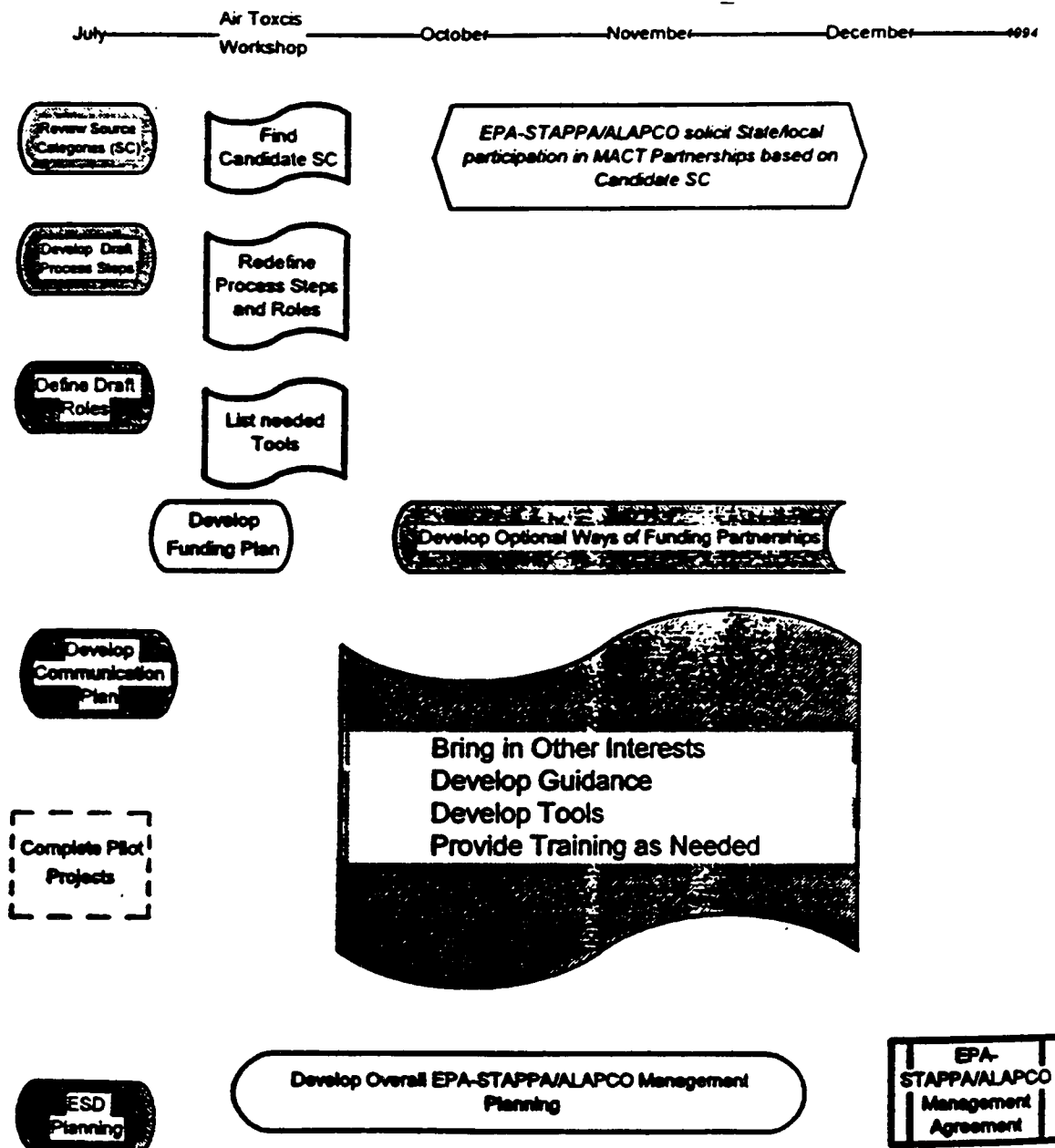
Two figures are provided to indicate the timelines that are anticipated for the MACT Partnerships program. The first timeline describes the near term activities from July to December of 1994 that develop this partnership into a viable program. Further suggestions on this timeline are welcome. The second timeline shows the flow of work on MACT standards from the EPA-State/local experts meeting through the various regulatory paths for the MACT standards that are due in November of 1997; this projection depends on the extent the MACT Partnership program is accepted and implemented by all stakeholders.

In summary, the MACT Partnerships program is one way to pursue new, assertive ways to develop MACT standards. MACT Partnerships is characterized by EPA and State/localities working together with industry and environmentalists to fulfill the mandate to set MACT standards for sources of hazardous air pollutants. Given the mutual interest of all the stakeholders and EPA's current "budgetary" situation within the air toxics program, EPA has begun redefining its role for many MACT standards as a coordinator and facilitator. The EPA is fortunate to have begun working with several states on pilot projects for MACT standards addressing the yeast manufacturing and primary aluminum manufacturing. In August 1994, EPA, State and local officials and staff will be exploring further how to make MACT Partnerships work.

For information, contact Fred Dimmick at EPA's Emission Standards Division -- 919-541-5625 (voice) or 919-542-0072(fax).

MACT PARTNERSHIPS

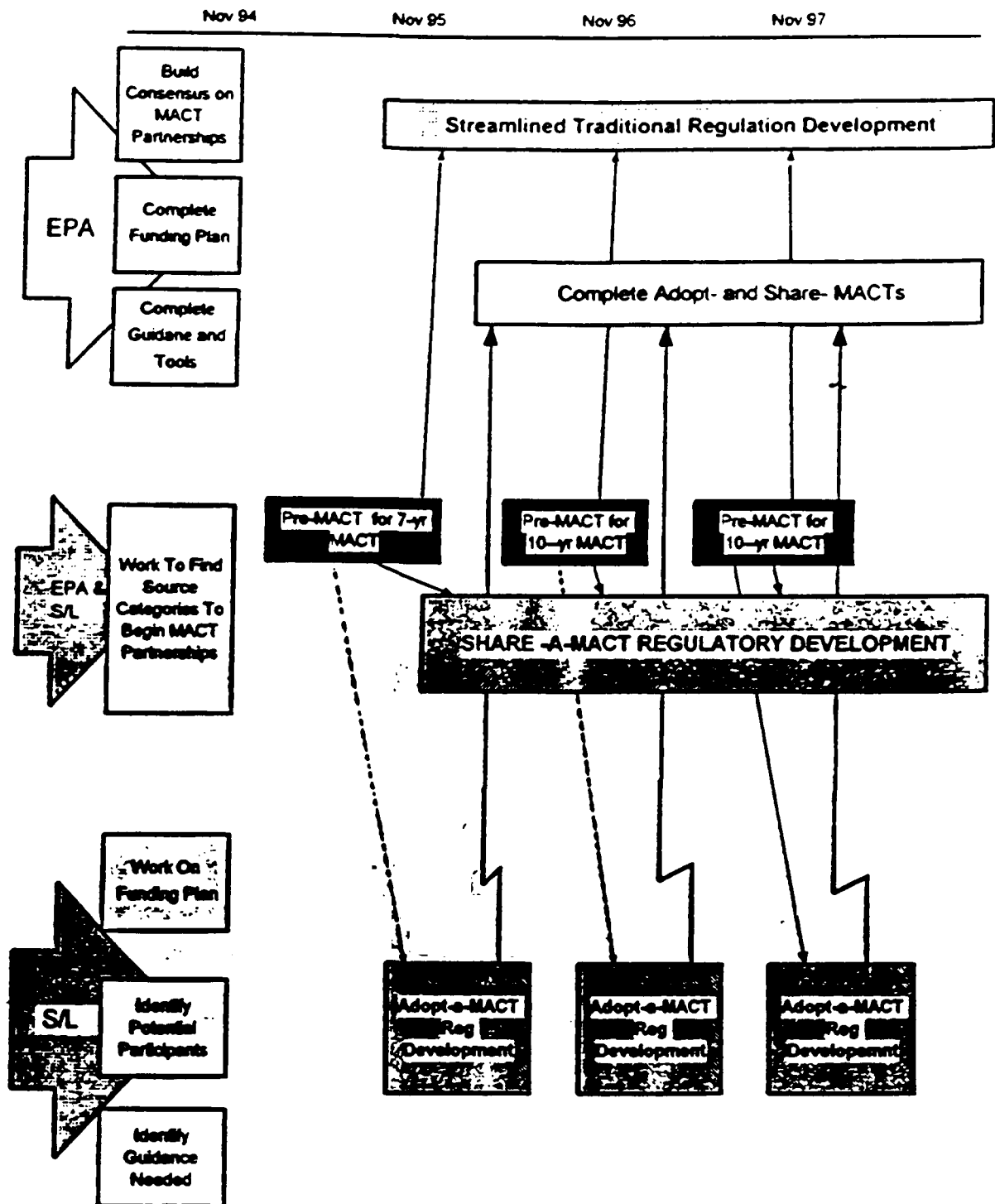
Near Term Activities Timeline



MACT PARTNERSHIPS

Long Term Activities Timeline

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Introduction to Presumptive MACT

Presumptive MACT is an estimate of MACT based on available data that can be obtained quickly. It is done at the beginning of a project in a short timeframe (3 to 6 months). Presumptive MACT answers the question, "If MACT had to be determined today, what would it be?" It is developed in a partnership between EPA and State and local air pollution control agencies with input from industry and environmental groups. Due to the nature of and the timeframe for Presumptive MACT, considerations such as the MACT floor, control cost and economic impacts, and benefits would not be available. If more than one level of control is viable as Presumptive MACT, generally the most protective option should be selected to ensure it is at least as stringent as the floor and to minimize the possibility that the MACT standard will be more stringent than Presumptive MACT.

The primary purpose for developing Presumptive MACT is to assist State and local agencies in Section 112(g) case-by-case MACT determinations and facilities with Section 112(j) hammer provision standards in the event that standards are not available. Another purpose for Presumptive MACT is to enhance upfront planning in the standards development process, to identify issues to be resolved early in a process, and to identify key players. The final purpose is a recommendation of the proposed regulatory path that should be taken to develop MACT. This recommendation could include traditional regulation development or candidates for innovative regulatory paths, such as Adopt-A-MACT, Share-A-MACT, or even a quick route to propose the presumptive MACT as MACT.

The Presumptive MACT would be as complete as possible to make it of maximum use in case-by-case MACT decisions. Emission limitations would be provided as possible; if not, the control technology representing Presumptive MACT would be cited. Other elements to consider in the decisions, include subcategorization and regulation of area sources. Appropriate enhanced monitoring requirements would be selected as possible. Reporting, recordkeeping, and notification requirements would be specified; generally through the tabular summary cross reference to the requirements in the General Provisions in 40 CFR 63. The last element of Presumptive MACT would be a list of questions to be answered in taking the project forward to a MACT standard.

Information which might be available for developing Presumptive MACT includes State and local regulations, previous regulatory efforts for this source category, MACT standards that have been developed for similar sources (or have information which might transfer), existing test reports, literature

searches, permits, and perhaps other information. Site visits and abbreviated Section 114 questionnaire surveys may or may not be conducted, depending on the project. Documentation of the available information would be used as supportive evidence to Presumptive MACT and would serve as a starting point for further regulatory development. This would include the documentation of the selected Presumptive MACT and a list of questions to be resolved and other information, as possible, such as a list of contacts, a brief industry description, a summary of available data, and applicable State and local regulations or permits.

The process of developing Presumptive MACT for a specific source category contains several steps. First, the EPA and State/local agencies that have an interest in the source category would form a team and the EPA and State leads would be identified. As early as possible, the EPA and State/local team would review the readily available information to determine what data gaps are able to be filled prior to identifying Presumptive MACT. The team shall decide if additional existing information can be obtained to fill the data gaps and develop a plan to obtain it. Meetings with industry and environmental groups may assist in this process. As soon as the relevant existing information has been obtained, a meeting of the EPA and State/local experts would be held to choose preliminary Presumptive MACT. An effort should be made to reach agreement between EPA and the State/local experts in the decisions; where a preliminary Presumptive MACT can not be determined, the team should articulate the questions needed to be answered before a Presumptive MACT can be determined.

The preliminary Presumptive MACT decision that results from the experts meeting would first be ratified by the Director of the Emission Standards Division and STAPPA/ALAPCO and then be presented to the industry and environmental concerns at an open roundtable meeting. The team would present an overview of the Presumptive MACT process, describe the MACT process, review our findings on the industry and our resulting preliminary Presumptive MACT. Industry and environmental groups would then provide information that they have developed and their comments on the preliminary Presumptive MACT. Following the Presumptive MACT roundtable meeting, the EPA and State/local partners would meet to consider the information and concerns presented in the roundtable meeting and decide the final Presumptive MACT. Final Presumptive MACT and the documentation would then be communicated to the public through means such as the TTN and the MACT database.

All 7- and 10-year source categories are candidates for Presumptive MACT. Since the major purposes for Presumptive MACT are for case-by-case MACT determinations and early project planning, projects that are well along or will have proposed standards during FY95 would be less viable candidates.

Presumptive MACT
Questions and Answers

What is Presumptive MACT?

Presumptive MACT is our 'best guess' at MACT, based on data which can be obtained in a short timeframe. It is done at the beginning of a project within the first 3 - 6 months. Presumptive MACT answers the question, "If MACT had to be determined today, what would it be?"

What is it used for?

The primary purposes for Presumptive MACT are: 1) to assist State and local agencies in Section 112(g) case-by-case MACT determinations and facilities with Section 112(j) hammer provision standards, 2) establish the Agency's preliminary decision point at which formal MACT development will proceed. It has no statutory basis or legal standing and is offered only for guidance, caveated by the depth of available information on which it is based.

What is the result of the Presumptive MACT determination?

The process of developing Presumptive MACT has two main products:

- 1) The Presumptive MACT and a list of questions to be addressed in developing a MACT standard
- 2) A recommendation of the proposed regulatory path which should be taken to develop MACT

What is the recommendation of the proposed regulatory path?

After the short information gathering period, a recommendation of the best manner in which to develop the standard will be made. This recommendation could include traditional regulation development (either in-house or with contract support), Adopt-A-MACT, Share-A-MACT, or even a quick route to propose the Presumptive MACT as MACT. The recommendation would be based on many factors, including the accessibility and need for additional information gathering, the uncertainties associated with the Presumptive MACT, and the presence of a strong State lead, amongst other factors.

What kind of documentation would be done?

The documentation would be used as supportive evidence to the Presumptive MACT determination and serve as a starting point for further regulatory development. It may include meeting minutes, briefing packages, memorandum, or brief summary reports, but is not formalized. This documentation could include, but are not limited to, the documentation of the selected Presumptive MACT; a list of issues to be resolved; a list of contacts associated with the project (industry, State and locals, interested environmentalist groups, and team members); a recommended approach for further regulation development; a brief industry description, a summary of available data; and any applicable State and local regulations.

Since this is not a requirement in the Act, why make a Presumptive MACT determination?

Although the development of Presumptive MACT is not a statutory requirement, it will aid the State and local agencies in making case-by-case MACT determinations. In addition, it should be a useful planning tool in the standards development process, will identify issues to be resolved early in a process, identify key players, and suggest a manner in which to develop MACT. All of these can help us leverage our limited resources and put us in a better position to meet the requirements of Section 112.

How is Presumptive MACT developed?

Presumptive MACT is an estimate of what MACT would be after a brief review of available information. Generally Presumptive MACT should be more stringent, rather than less stringent, than the resulting actual MACT. A "top-down" analysis may prove useful for this purpose. Very little, if any, new data such as source testing would be generated by the Agency in developing the Presumptive MACT. After gathering the existing information, a "best guess" to what MACT might be is made. It is anticipated that, in most cases, it would not be possible or necessary to conduct a formal "floor" analysis in developing presumptive MACT.

Information which might be available for developing Presumptive MACT includes State and local regulations, previous regulatory efforts for this source category, MACT standards that have been developed for similar sources (or have information which might transfer), existing test reports (solicited from industry), literature searches, permits, and perhaps other information. Site visits and abbreviated §114

questionnaire surveys may or may not be conducted, depending on the project.

Presumptive MACT would be developed from this available information and documentation would be as complete as possible to what a MACT would require. Emission limitations would generally be provided; if this is not possible, only the type of control representing Presumptive MACT would be cited. Reporting, recordkeeping, and notification requirements would be specified as possible. In most cases, this would consist of a summary or a reference to the requirements in the General Provisions to 40 CFR 63. (An initial summary will be provided; this would be modified for a specific project.) Appropriate enhanced monitoring requirements would be selected; however, it is expected that this would seldom be possible.

Will every project do Presumptive MACT?

All 7- and 10-year source categories are candidates for a Presumptive MACT determination. Since the major purpose for Presumptive MACT is for early project planning and case-by-case MACT determinations, projects that are well along and will propose standards in FY95 would be less viable candidates. Portions of the Presumptive MACT process have merit to FY95 projects, e.g., consensus meeting.

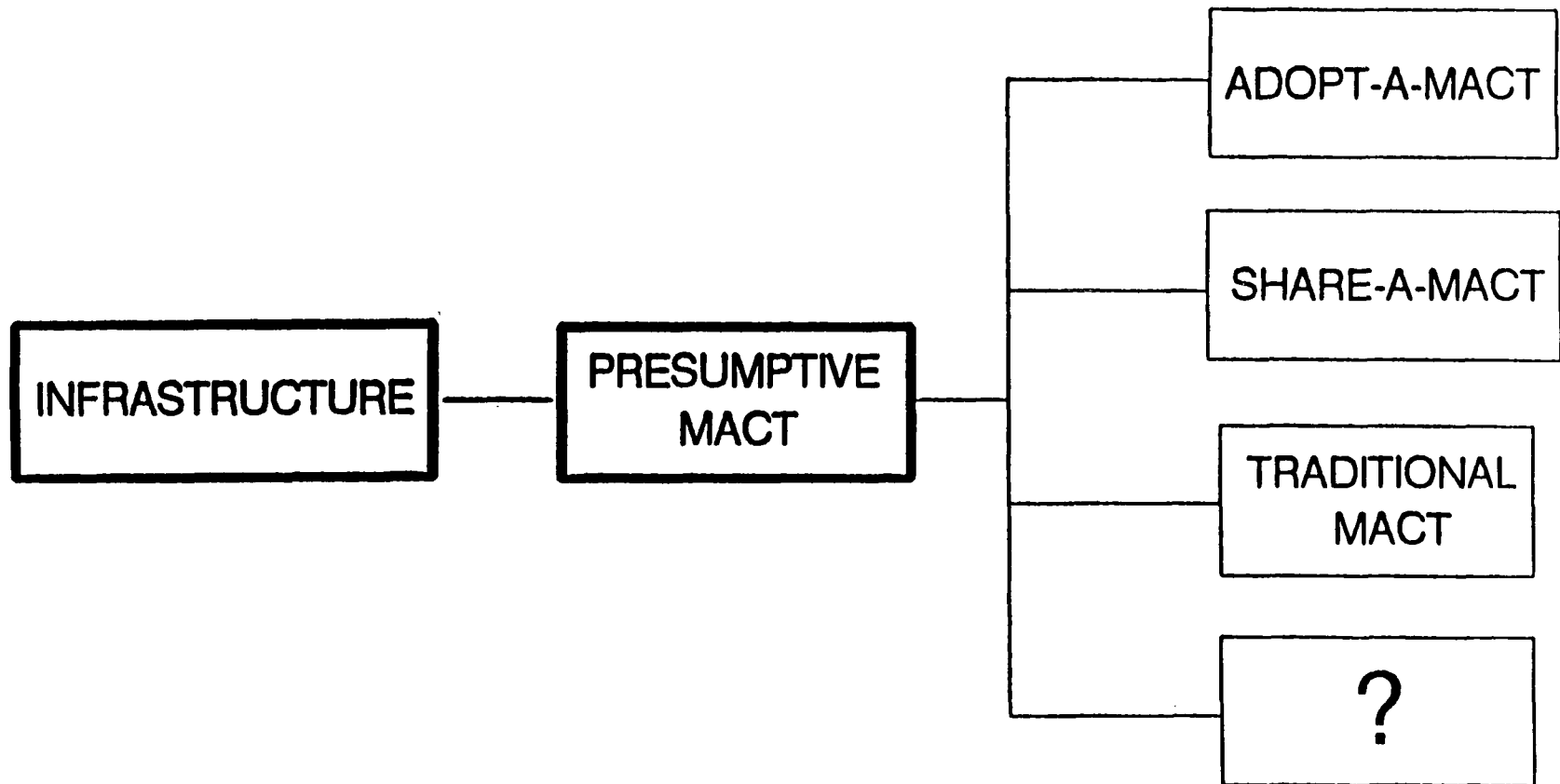
Who plays a role in developing Presumptive MACT?

EPA and State/local agencies will both play a key role in making the final determination of Presumptive MACT and the recommended regulatory development path. Generally, the EPA effort would be conducted in-house, without contractor support. Industry will play a role in supplying information (on a timely basis, as always). Every attempt should be made to reach a consensus with the State/local partners in the decisions; however, the ultimate responsibility for the Presumptive MACT decision rests with the EPA.

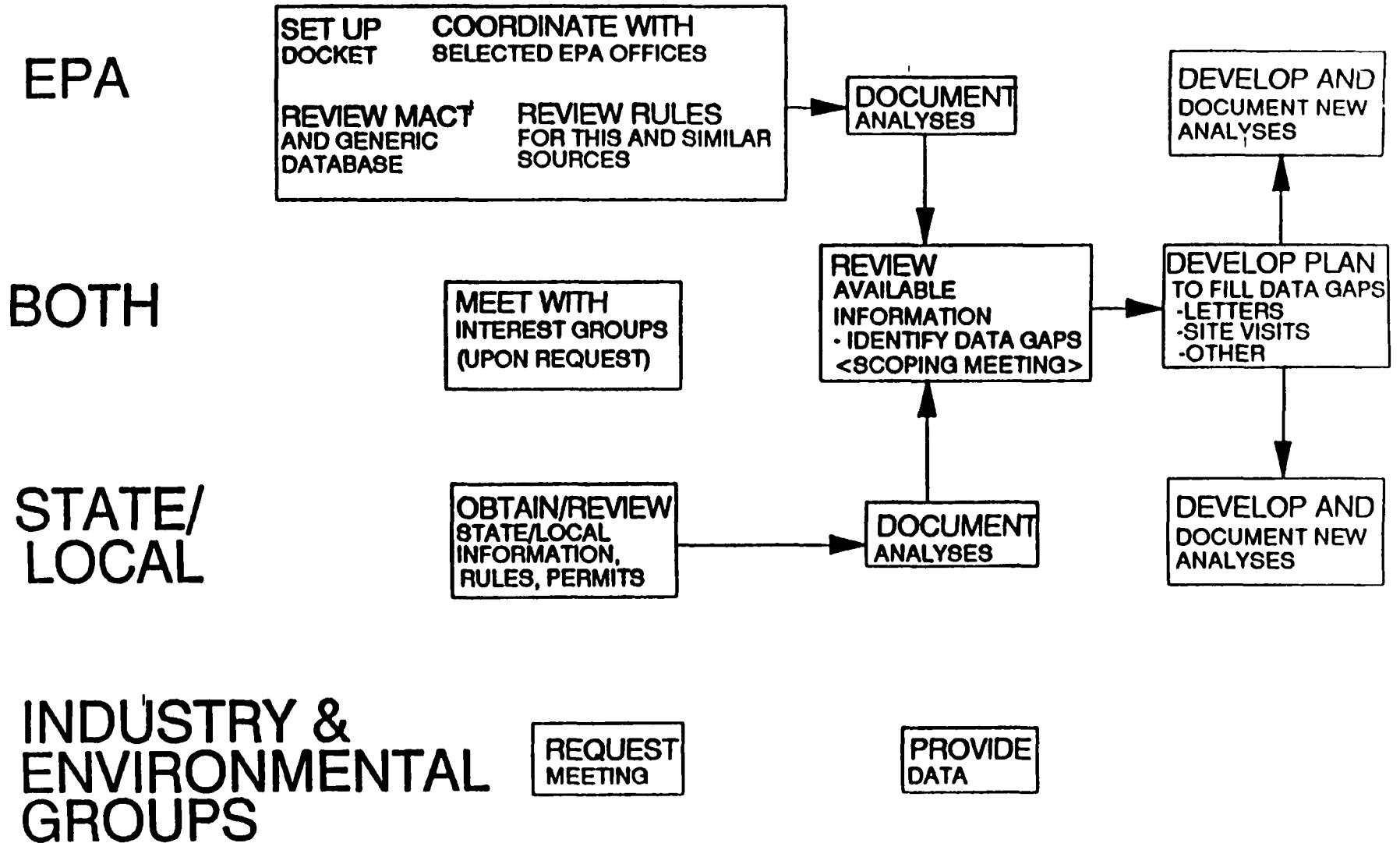
PRE-MACT INFRASTRUCTURE PREPARATION

- DEVELOP AND TRIAL THE PROCESS
- REVIEW SCL FOR SAM/AAM CANDIDATES
- PUT LIST ON TTN
- DRAFT GENERIC LETTERS ABOUT PROCESS
- COMPILE OVERVIEW INFORMATION
ON SOURCE CATEGORIES

MACT PARTNERSHIPS



INFORMATION GATHERING (8-12 WEEKS)



FORM TEAM (1-2 WEEKS)

EPA

**IDENTIFY EPA
PLAYERS
& LEAD**

**LETTER TO
STAPPA/ALAPCO
SEEKING
INFORMATION**

**INITIATE
LITERATURE SEARCH,
INCLUDING
AIRS DATA**

**LETTERS TO:
INDUSTRY
TRADE GROUPS
ENVIRONMENTAL
GROUPS
SMALL BUSINESSES**

BOTH

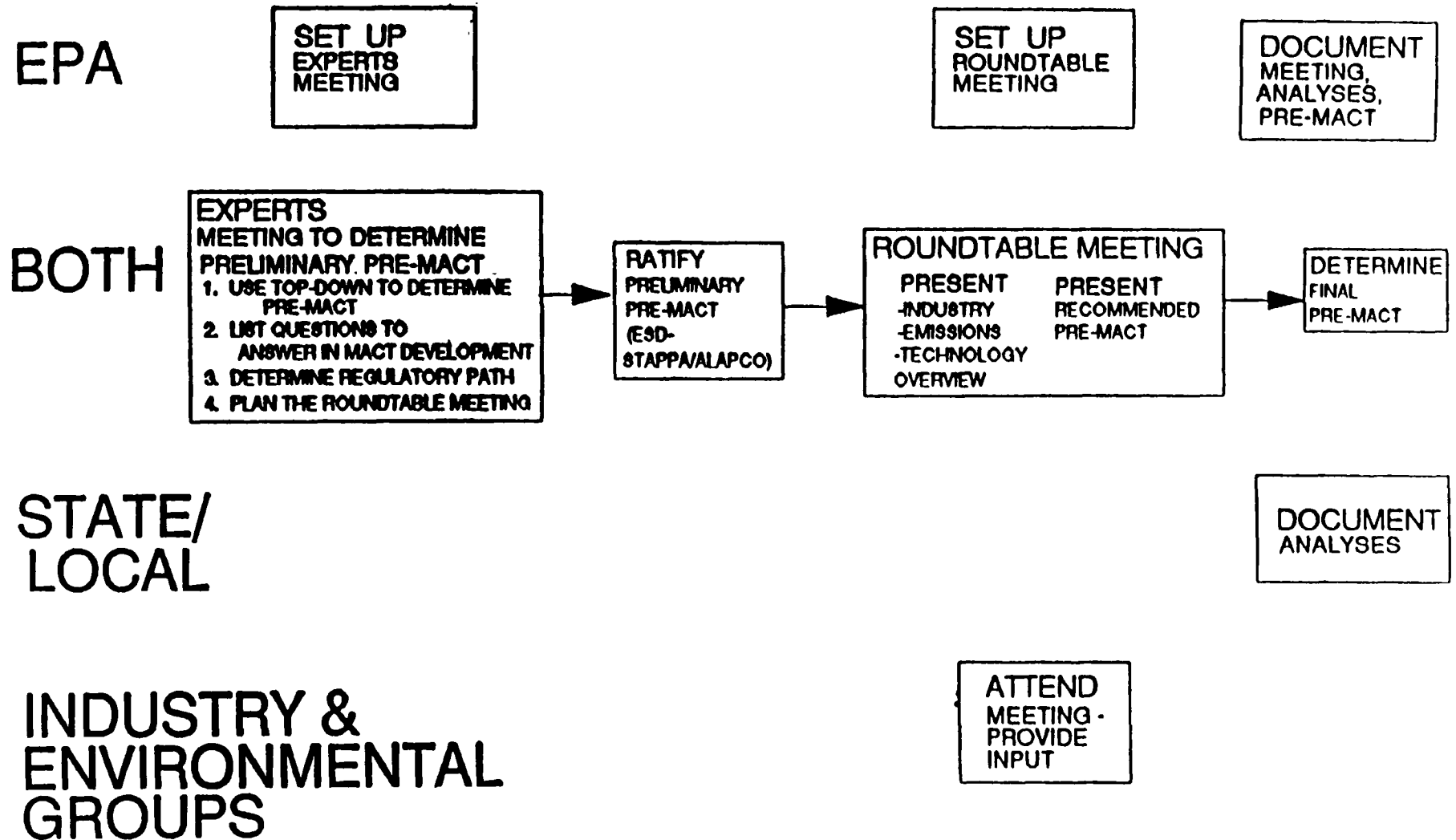
**PRE-MACT
TEAM
ASSEMBLED**

**STATE/
LOCAL**

**STATE COMMITS
TO PROVIDE THEIR STATE
INFORMATION AND
TO ACTIVELY PARTICIPATE**

**INDUSTRY &
ENVIRONMENTAL
GROUPS**

SELECT PRE-MACT (3-6 WEEKS)



MACT DATABASE

Background: The MACT database is an implementation tool for States to use in making case-by-case MACT determinations. This database is in the late planning stages now.

ESD uses AIRS/AFS to house the MACT database because it currently contains most of the data fields we believe are needed for case-by-case MACT determinations. Emission fields for all the facility, processes, and pollutants that ESD requests in the ICR form also exist in AIRS/AFS except the capture device field. One data field that ESD uses but that is not generally a part of the generic ICR form is actual uncontrolled emissions, which will be useful for potential-to-emit work. AIRS/AFS is also the data system that will be used to support the Title V Operating Permit System, and as such, we believe it is the most logical choice for the MACT database since 112(g) and (j) case-by-case MACT determinations must be reflected in the permit.

AIRS/AFS can currently be used for storing, assimilating, and displaying available source category information. However, little HAP data is currently available for determining MACT. A great amount of criteria pollutant data is available; but this should be used with great care as a surrogate, since the behavior of toxic particulate and organic species differs in varying degrees from the criteria counterparts. Although some source categories are well defined in the existing SCC code system some are not and will not be well defined until the SCC code project (briefly described below) is finished and the information made available to the State users.

Upgrades: Significant efforts are underway to advance the MACT Database:

- User Requirements Analysis and Project Scope being conducted by the National Air Data Branch (NADB) is underway to better define enhancements to AIRS/AFS.
- Another project underway is the identification of Section 112 source categories with SCC codes. This project targets source categories and processes in the Section 112 source category list for which EPA has not yet begun the data collection process for a MACT standard.
- A third project is to provide States with guidance on using data obtained from AIRS/AFS for making case-by-case MACT determinations.

The guidance and SCC code documents and the User Requirements Analysis are due to be finalized this fall.

August 9, 1994

Share-A-MACT-Questions That Need To Be
Addressed in the Workplan
(Beyond Those Addressed in a Traditional Project)

1. Who are the partners?
2. What task(s) will each partner do? What is the endproduct; the interim products; any specifics about how the task will be performed; the timetable for deliverables?
3. Can the task be done and still meet the 7 or 10 year deadline in the CAA? If not, can the task be modified to fit? If not, should it be done?
4. If more than one State is doing a task, which State is the lead State? How will the lead State get feedback from other partner States? Any other interested States? Who will review what and when?
5. Will EPA funding be provided for State tasks? If so, how much? What is the funding mechanism?
6. Is a memorandum of understanding required spelling out endproducts and due dates? What are the consequences (even if there is no memorandum of understanding) if a task is not performed in time?
7. What role will the partner(s) play in the EPA decision/review process over the life of the project? Will they be part of the core team that determines the recommendations on the standard for proposal? Will they attend decision meetings for higher level EPA management? Will they be the parties responsible for responding to EPA/OMB questions on their tasks? Will they be able to make comments at decision meetings in the same way as any EPA office? If a State is a partner, will they prepare responses to public comments on the tasks they are responsible for? What role will they play in the EPA/OMB management review process for promulgation?
8. Will periodic (e.g. biweekly) teleconferences occur for coordination among partners/EPA?
9. What are the plans and timetables for coordinating with non-partner external groups and the EPA workgroups? How does this fit with the coordination process among partners? Who is on the EPA workgroup?
10. For EPA tasks, which parts will an EPA contractor do? By what mechanism will the contractor communicate with non-EPA partners (directly, or indirectly through the WAM)?

INTRODUCTION TO SHARE-A-MACT

1. Share-a-MACT is a process in which EPA is the lead in developing a standard, but partners perform selected, clearly identified tasks, and participate more fully in the rulemaking process than if they were interested parties only.
2. Partners can be State (or local) air pollution control agencies, industry groups, and/or environmental groups. EPA is currently actively seeking State partners. Industry and environmental groups could also be partners, although their roles would have to be more limited for legal reasons (especially during the promulgation phase).
3. Share-a-MACT is advantageous to EPA because it may allow EPA to acquire data it would otherwise not have the resources to acquire; it will promote consensus building and information exchange which enhance the quality of rules; and it may allow EPA to have better access to State expertise on particular source categories.
4. Share-a-MACT is advantageous to partners because it will allow them to participate more directly in the day-to-day activities of developing the background materials and participating in meetings to decide recommendations on key aspects of the rules.
5. A process flow diagram has been prepared to illustrate the generic Share-a-MACT process. However, this diagram is only very general because the specifics will vary from project-to-project, depending on the number of partners and the tasks they agree to perform. Attachments 1 and 2 provide some additional detail.
6. The generic process flow diagram for Share-a-MACT is very similar to the diagram for EPA to prepare a rule without partners. The key differences include (1) development of a workplan clearly defining the specifics about the tasks to be performed by partners, (2) the early participation of partners in meetings to decide recommendations for various components of the rule, (3) the active participation of partners in EPA decision meetings to respond to questions and comments on the tasks they have performed, and (4) the potential participation of partners in responding to public comments on a proposed rule for the tasks they performed (for legal reasons, a partner's role may be more limited here).
7. A key step in Share-a-MACT is to quickly develop a comprehensive and agreed-to Workplan that clearly defines partners' (including EPA) roles and responsibilities, partners' relationships, and the timing for end products. A critical question that has to be answered in developing the Workplan is whether the tasks proposed to be performed by the partner(s) can be done in time to keep the standards on schedule; if not, how can they be modified to fit? A draft list of questions to be answered for the workplan is available; no doubt additional questions may arise. The questions address specifics of tasks, timing, relationships among partners, relationships among State partners and other interested States, etc.
8. Comments on how to improve the Share-a-MACT process are welcome. Room for improvement will continue as the process evolves and we all learn through experience.

Additional plans for AIRS/AFS include:

- a fixed format reporting capability to display MACT data for the reviewer,
- a bibliography section to reference documentation of the basis for the emissions estimates,
- a MACT flag to identify facilities that have undergone a case-by-case MACT determination,
- a field populated by the user to enumerate the number of sources in a source category within the State, and
- a field populated by the system that enumerates the number of sources in a source category that are represented in the system.

Other enhancements may also be made to AIRS/AFS in support of the MACT program that are not described here.

Training: EPA plans to schedule training sessions for both air toxic program and emissions program people in States and Regional Offices as soon as the enhancements to AIRS are underway in NADB.

Result: After completion of these projects, we envision the State, as the primary user, will be able to enter HAP data for their Section 112 source categories into well defined data fields, retrieve National data on the same from other States having information in the system, generate a report that displays the retrieved information logically, and provides a rough calculation of the 12th floor.

The user will still be responsible for investigation of the retrieved information through the bibliography, control efficiency estimation methods, and emission estimate methods to assure the Data Quality Objectives (DQOs) desired for the data. We plan for the user to be able to flag facilities that have undergone a case-by-case MACT determination, and retrieve a user-defined County, State, Regional or National list of such facilities. Users will be advised to query the system before determining MACT to see if a MACT has already been determined for a source category, and whether that determination has been superseded based on more current data.

11. What will be the process for resolving conflict among States? Among EPA and States?

12. Should the first interim product on a given task be a description/outline of the endproduct to ensure common understanding?

13. How will CBI be addressed?

SHARE-A-MACT (SAM)DESCRIPTION OF PROCESS

- I. Presumptive-MACT Meeting identifies Presumptive MACT, General Approach (AAM, SAM, other); and if SAM, candidate partners (States, local, industry, etc.); work group process; technical questions; targets for groups.
(1 month)
- II. EPA and Share-A-MACT candidates meet to decide which tasks partners will do. (1 month)
- III. Partners develop input for work plan on their tasks; i.e., time to do task, specific outputs of task, how they will coordinate with other groups (States), resolve needs (if any) from EPA. EPA does the same with regard to remaining tasks; also deciding which tasks will be done under contract.
(1 month)
- IV. Complete draft work plan (1 month). Work plan needs to address a number of specific questions addressing relationships with partners. Each work plan will differ, depending on the project, but a list of questions that should be addressed is attached.
- V. Meet to finalize work plan (1 month). Data are developed by various partners and inputted to EPA. EPA consolidates information. EPA is overall lead. EPA distributes consolidated information to partners.
- VI. EPA and partners meet to decide recommended MACT.
- VII. Compiled information and recommended MACT are distributed to all interested parties for a roundtable or NAPCTAC meeting.
- VIII. EPA goes through normal EPA decision and review process with partners available to answer partners on their tasks and to comment on recommendations.
- IX. Standard is proposed.
- X. EPA reviews public comments. Those pertaining to tasks done by State partners are given to States to answer questions about data and to prepare a preliminary response. Industry partners are treated differently, but we may at least ask them questions about any tasks they performed.
- XI. EPA and State partners meet to develop position on final recommended standard.
- XII. Go through EPA decision/review process as before for promulgation.
- XIII. Promulgation.

The "adopt-a-MACT" regulatory development process is part of an EPA-STAPPA/ALAPCO program entitled MACT Partnerships. The adopt-a-MACT process is one of the ways EPA and State/local partners can complete a MACT standard after the EPA-State/local experts meeting. If, in this meeting, the EPA-State/local partners conclude that an adopt-a-MACT process is appropriate, State or local agency personnel would collect and analyze any additional data needed to complete the MACT standard. They would also prepare the documentation needed by EPA in fulfilling the regulatory steps associated with proposing the MACT standard in the Federal Register. After proposal of the MACT standard, EPA would coordinate the development of responses to comments by the State/local agency personnel.

Adopt-a-MACT projects will generally be associated with source categories where there are relatively few sources affected by the MACT standard. This factor is more characteristic of an adopt-a-MACT project than a condition for such a project. An initial review of the source categories due in November 1997 indicates that 8 source categories have only 1 source in the category. For such categories, States and local agency personnel (along with plant personnel and consultants) form the best technical resource to develop a MACT standard on a short schedule and within a limited budget. Many State agencies have developed air toxics programs and have been setting technology-based and health-based requirements for sources of HAP. Where a State has addressed one of these source categories, it should be possible to complete the MACT standard expeditiously.

The work done by the State/local partner would be defined during the EPA-State/local experts meeting and the subsequent meetings with outside interests, particularly industry and environmentalists. A list of tasks would be developed and documented in a memorandum of agreement between the State/local and EPA partners. The EPA will be developing guidance and tools for State/local partners to consider before becoming a partner in an adopt-a-MACT project.

During the EPA-State/local experts meeting, EPA and State/local representatives would develop a presumptive MACT as completely as possible. However, where questions remain, the partners would define further work to address these questions. Also, as the partners explain the presumptive MACT and questions to the outside interest, more questions are likely to be raised. Based on a review of all these questions, the partners will define what work is most needed (and can be completed given resources and time) to complete the MACT standards development. For adopt-a-MACT regulatory development, a State or local partner would perform the data collection, analysis, and documentation and EPA would perform the role of senior advisor on policy issues.

Given the opportunity for EPA to leverage the experience and talents of State/local personnel in adopt-a-MACT projects, EPA is considering how to fund these projects. While some States may be able to provide their experts on an in-kind basis, EPA will likely need to help fund the expenses for adopt-a-MACT projects not typically borne by State/local agencies. Funds will be needed by EPA for doing its part of this partnership.

The amount of time and resources required of an adopt-a-MACT project will vary by the degree to which there is a consensus among all stakeholders that the presumptive MACT reflects an appropriate outcome for MACT. For those aspects of the MACT standard where there is a consensus that the presumptive MACT reflects an appropriate outcome for MACT, the partners would spend less time and resources. This will allow the partners to devote most of the resources and time on the critical questions that should be addressed to develop an adequate MACT standard.

One issue that needs to be clarified concerns the extent to which State/local personnel and other partners can participate after the formal proposal of a MACT standard. In the MACT Partnerships program, EPA will need to work with all parties who participated in the development of the proposal. For the State/local partner in an adopt-a-MACT project, this will involve at least a full review of technical comments and potentially a discussion of policy questions raised in public comments.

During the development of the MACT standard, the State/local agency will likely hold public meetings at locations near the affected plants to obtain the views from the affected industry and publics. A formal public hearing should not be needed during the rulemaking unless one of the stakeholders requests one.

The EPA is likely to determine that rulemakings for adopt-a-MACT projects would follow the EPA's Tier 3 work group process. In developing an analytical blueprint for such projects, EPA will outline the MACT Partnership process and the adopt-a-MACT approach to developing the MACT standard. In developing the standard, ESD staff will ensure that OAR management are informed, that OGC addresses any new legal issues and that OECA has an opportunity to address enforcement issues. All issues typically addressed within EPA's Work Group process will be aired during the development of the standard rather than after the standard is ready to be proposed or promulgated.

In general, EPA with its State/local partners would take about 2 years to develop a MACT standard through the adopt-a-MACT process. Six months to collect and analyze data; 4 months to draft the preamble/regulation and obtain EPA concurrences; and 12 months to respond to comments and obtain final concurrences by the Administrator of EPA. The plan is to move to proposal as quickly as possible. With this approach, the partners have the time to publish a notice of supplemental data if additional comments are needed on material developed after the initial proposal.

Note

To: MACT Partnerships Management Task Force

From: Scott Mathias, Holly Reid, Dave Svendsgaard

Date: August 18, 1994

Here is our attempt to identify and flesh-out the roles and responsibilities of various potential partners in a matrix format. We have prefaced the R&R matrix with a brief statement of program themes and principles that we generated, and also by some initial thoughts on Partnership Agreements and a Partnership "Primer."

In the R&R matrix we did not identify specific partners for several tasks in the Adopt-A-MACT/Share-A-MACT process because the tasks that partners perform will vary from project to project. We chose instead to identify "Lead" and "Support" partners, and assigned appropriate responsibilities to them. Depending upon the nature of the project, EPA-HQ's responsibilities can range from "doing it all" to "doing nothing but guide." Our group's efforts were complicated by not knowing whether industry and enviro groups (i.e., non-regulators) could contribute to certain MACT development tasks (e.g., draft rule and preamble). The matrix will undoubtedly be revised as issues like this are addressed by counsel. We generally do not view many of the role definitions as set in concrete, but rather we view them as guidelines to be adapted to each project.

We urge that a process diagram of some sort be married to the roles and responsibilities matrix to make it clearer. We also urge that additional thought be given to determining the content of Partnership Agreements and the value of a "Primer."

The following two topics were summarized by this group as important activities that would further MACT Partnerships.

Partnership Agreement (PA)

The PA is the cornerstone of Adopt-A-MACT projects and is a potentially useful tool for Share-A-MACT projects. The purpose of the PA is to outline expectations about all partner's participation in MACT standard development, and provide guidance to parties contributing to the process.

Components:

1. Work Plan - task outline with major milestones and delivery dates (see Susan Wyatt's notes on Share-A-MACT)
2. Outline of Roles and Responsibilities - narrative description and matrix
3. Partnership Consent (see OGC verbiage)
4. Appendices (Infrastructure Items)
 - Guidance on handling CBI
 - Guidance on Funding, Staffing (IPAs), etc.
 - Guidance on Communication Planning

MACT Partnership Primer

A MACT Partnerships primer would involve a 1 or 2 day classroom exercise led by EPA-HQ personnel (possibly a training specialist). The exercise would be designed to provide a "crash course" on the intricacies of MACT standards development. It would be less a "how to" course, which can be found in the MACT Partnership Manual, and more of a "hitchhiker's guide" that includes interactive discussions on avoiding MACT development pitfalls and fostering innovative thinking. A comprehensive primer is important for Adopt-A-MACT projects, and certain pieces of the primer may be important for Share-A-MACT projects.

MACT PARTNERS PROGRAM THEMES

The Agency seeks to combine limited resources and form partnerships to ensure the environmental goals of the Clean Air Act are achieved in a timely manner. Partners include STAPPA/ALAPCO, individual State governments, affected companies and their associated trade groups, environmental protection groups, and the public. The role of partners is to enrich the Agency's MACT development process by identifying and incorporating expertise and data that is not readily available to the Agency. The Agency's role is to empower partners to provide expertise and data to the Agency in a way that furthers the goal of environmental protection, provide guidance to partners on channeling expertise and developing and collecting data, and to make the best regulatory decisions possible based on the expertise and data supplied by partners.

MACT PARTNERS PROGRAM PRINCIPLES

- ♦ Identify and involve new partners -- hand off or share responsibility with willing, capable public and private partners. (from OAR Vision Statement)
- ♦ Empower partners -- provide tools, guidance, and coordination necessary to make partnerships effective.
- ♦ Work with stakeholders early -- agree on real measures of success and accountability. (from OAR Vision Statement)
- ♦ Agency accountability -- the Agency retains control of "inherently governmental functions" including the final decision-making authority on all regulations and policy guidance.
- ♦ Seek creative ways to achieve environmental goals -- innovative regulatory development processes, regulations, and compliance strategies.



Ranking of 7-year MACT Standards for Presumptive MACT Determination

25-Jul-94

DRAFT

Source Category	# of Companies	# of Facilities	# of States	State(s)	Scoring Used for the Development of the Combined Scores					Combined Score (weighted)
					Facilities	States	Simplicity	Diversity of Control	Regulatory Status	
Butadiene Dimers Production	1	1	1	LA	25	25	25	15	15	21.5
Fume Silica Production	2	3	3	IL, AL, NY	20	15	20	20	25	19.75
Chromium Chemicals Manufacturing	2	2	2	NC, TX	20	20	15	15	25	19.75
Chlorothalonil Production	1	1	1	TX	25	25	10	10	20	19.25
Primary Lead Smelting	2	3	2	MO (2), MT	20	20	15	10	25	19.25
Tordon (tm) Acid Production	1	1	1	TX	25	25	10	10	20	19.25
Sodium Pentachlorophenate Production	1	1	1		25	25	10	10	20	19.25
Dacthal (tm) Production	1	1	1		25	25	10	10	20	19.25
Chloroneb Production	1	1	1	WV	25	25	10	10	20	19.25
Captafol Production	1	1	1		25	25	10	10	20	19.25
4,6-Dinitro-O-Cresol Production	1	1	1	TX	25	25	10	10	20	19.25
Polycarbonates Production	3	4	3	AL, IN, TX (2)	15	15	20	15	20	17.25
Acrylic Fibers/Modacrylic Fibers Production	3	3	3	AL, FL, SC	15	15	25	15	15	17
Acetal Resins Production	3	3	3	WV, TX, AL	20	15	15	20	15	16.25
Primary Copper Smelting		5	5	AZ (3), NM (2)	10	10	20	10	25	15.75
Caplan Production	3	3	3	CT, OH, GA	20	15	10	10	20	15.5

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Source Category	# of Companies	# of Facilities	# of States	State(s)	Scoring Used for the Development of the Combined Scores					Combined Score (weighted)
					Facilities	States	Simplicity	Diversity of Control	Regulatory Status	
4-Chloro-2-Methylphenoxyacetic Acid Production	3	3	3	MI, MO, IL	20	15	10	10	20	15.5
2,4-D Salts and Esters Production	4	4	4	MI	15	15	10	10	20	14.75
Nylon 6 Production	7	7	5	KY, NH, SC (3), TX, WV	10	10	15	15	20	14
Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation		19	7		5	10	15	20	15	12.5
Primary Aluminum Production	10	23	10		5	5	20	5	20	11.75
Wood Treatment		60	10		0	5	15	15	20	11
Chlorine Production	28	60	25		0	0	20	15	20	10.5
Polyether Polyols Production	22	40	15		0	0	15	15	20	9.5
Phenolic Resins Production	34	73	20		0	0	15	20	15	8.75
Amino Resins Production	42	87	20		0	0	15	15	15	8.25
Portland Cement Manufacturing	60	110	40		0	0	15	15	15	8.25
Non-Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation		77	33		0	0	15	10	15	7.75
Steel Pickling - HCl Process	60	100	20		0	0	15	20	10	7.5
Wool Fiberglass Manufacturing	7	28	15		0	0	10	15	15	7.25
Mineral Wool Production	10	18	11		5	5	5	15	10	7.25
Reinforced Plastic Composites Production		10,000	48		0	0	5	20	15	6.75
Flexible Polyurethane Foam Production	50	130	40		0	0	5	20	15	6.75
Secondary Aluminum Production	60	300	40		0	0	5	5	15	5.25

DRAFT

Source Category	# of Companies	# of Facilities	# of States	State(s)	Scoring Used for the Development of the Combined Scores					Combined Score (weighted)
					Facilities	States	Simplicity	Diversity of Control	Regulatory Status	
Pharmaceuticals Production	30	100	40		0	0	0	0	20	5
Oil and Natural Gas Production		600	35		0	0	5	15	10	5
Petroleum Refineries - Catalytic Cracking (Fluid and Other) Units and Sulfur Plant Units		150	20		0	0	5	10	5	3.25
Pulp & Paper Production		350	35		0	0	0	5	0	0.5
Sodium Cyanide Production (HON)	5	6	4	NV, TN, TX (3), WY	0	0	0	0	0	0
Cyanuric Chloride Production (HON)	1	1	1	AL	0	0	0	0	0	0
Hydrogen Cyanide Production (HON)	11	15	7		0	0	0	0	0	0

(HON) - Denotes that this Source Category has been added to the list of applicable chemical productions that are subject to the Hazardous Organic NESHAP.

DRAFT
Scoring Criteria for Prospective Adopt- and Share-a-MACT Projects
(weighting factor in parentheses)

<u>Score</u>	<u># Sources (15)</u>	<u># States (30)</u>	<u>Simplicity (20)</u>	<u>Diversity of Control (10)</u>	<u>Regulatory Development Status (25)</u>
25	1	1	Very simple (info avail, helpful trade asso, existing state reg in place, low cost for control, etc.)	None (only one control option)	Unstarted
20	2-3	2	Fairly simple	Limited (two or three option sets)	Early stages (preliminary info gathering)
15	4-6	3-4	Probably simple	Moderate (four to six options)	Completed info gathering
10	7-12	5-7	Unknown	Unknown	Started writing BID
05	13-25	8-12	Probably not simple	Probably diverse	Pre-proposal (reg alternatives selected)
00	> 25	> 12	Definitely not simple (multimedia cluster, data unavail, high cost for control, hostile trade org)	Very diverse (over 10 options)	Proposed

Appendix B
Administrative Effort and Paperwork

**SUMMARY OF GROUP 2
DISCUSSION**

**"FORUM ON
RECORDKEEPING/REPORTING"**

PURPOSE OF GROUP

**-- ISSUE OF RECORDS IDENTIFIED IN
DECEMBER MEETING**

**-- DISCUSS GENERAL PRINCIPLES FOR
RECORDKEEPING, REPORTING,
MONITORING**

**-- DISCUSSED TWO CASE EXAMPLES
ON POTENTIAL TO EMIT**

-- DISCUSSED FOLLOWUP ACTIVITIES

GENERAL PRINCIPLES

"80/20" PRINCIPLE

**-- TRULY AIM AT GETTING 100% OF
RECORDS WE ASK FOR?**

**EMPHASIS ON OUTREACH AND --
TRADEOFF BETWEEN RESOURCES
SPENT FOR THIS AND RESOURCES
SPENT REVIEWING REPORTS...**

**CONCEPT OF "TIERING" BASED ON
SIZE, PROXIMITY TO STANDARD, HOW
CLOSED IS EXPOSED POPULATION,
ACTUAL EMISSIONS**

**ENV. RESULTS MAY DEPEND MORE ON
WHAT'S EMITTED THAN HOW MANY
PEOPLE COMPLY WITH RECORDS AND
REPORTS**

"GENERAL PRINCIPLES" DISCUSSION

"EXAMPLES" DISCUSSION

**NEED FOR RECORDS: "OLD WAY"
INEFFECTIVE. FOR EXAMPLE, TO
ENFORCE MUST REQUEST TEST.
(OECA, REGION 9 EXAMPLES)**

**CONCERN:
RECORDKEEPING/REPORTING
SEEMED TO BE AIMED AT
COVERING STATE/LOCAL
SHORTFALLS MORE THAN REAL
NEED. TRUST/PARTNERSHIP ISSUE.**

**EXAMPLE... COMPLIANCE 5
MONTHS LATER BASED ON CEM
LAG TIME..**

GENERAL PRINCIPLES (CONT)

RECOGNIZE POLITICAL PROBLEMS OF TOO MANY REPORTS AND RECORDS, SMALL BUSINESS CONCERNS ARE HEARD BY DECISION-MAKERS.

"COMMON-SENSE" INITIATIVE INDICATIVE OF EPA DESIRE TO REDUCE BURDEN???

NEED TO LOOK AT NATURE OF VIOLATION... WHEN DO "PAPER VIOLATIONS" ACTUALLY HELP REDUCE EMISSIONS...

GOALS:

CREDIBLE ENFORCEMENT

**100% COMPLIANCE????? ANY WAY TO
SEE IF MEETING THIS GOAL IS NOT
BEST WAY TO ACHIEVE ENV. RESULTS.**

**MATCH REQUIREMENTS WITH
ELEMENTS NECESSARY TO
DETERMINE COMPLIANCE AND
ACHIEVE RESULTS**

**FOSTER VOLUNTARY COMPLIANCE...
USE RECORDS AS TOOLS TO HELP
SOURCES UNDERSTAND STANDARDS...
SOURCE MUST SEE BENEFITS OF
COMPLIANCE...MAY BE ABLE TO
DEVELOP WAYS TO PROMOTE THIS
"GREAT PRINTER" LABEL...**

PROGRAM INTEGRATION POINTS

**NEED PROGRAM INTEGRATION EFFORT
TO ENSURE THAT REPORTS MAKE
SENSE IN TANDEM WITH PART 70
REPORTS...**

**112(l) ISSUE... CAN AGENCY
DEMONSTRATE PRACTICAL
IMPLEMENTATION ACHIEVES RESULTS
WITH LESS REPORTS AND RECORDS???**

REPORTS

REPORTS: IF ACTIVE INSPECTION PROGRAM, MORE FLEXIBILITY...

CONTINUED REPORTING SHOULD "BACK OFF" DEPENDING ON PROBABILITY OF CONTINUED VIOLATIONS

SHOULD PROMOTE ELECTRONIC COMMUNICATION OF REPORTS BY SOURCES, AND ELECTRONIC OVERSIGHT BY EPA. CAN HELP PUBLIC REVIEW REPORTS, TOO...

CONCERN: PUNISHING SELF-REPORTED VIOLATIONS. DISCOURAGE EFFECTIVE COMMUNICATION ON WHAT MUST DO TO COMPLY?

REPORTS: CLARITY, BREVITY, REPORT BOTTOM LINE... STANDARD

REPORTING FORM RECORDS

**PRACTICAL ISSUES...FREEBOARD
MEASUREMENT VS. DRAWING LINE...**

**FREQUENCY OF RECORDS: DEPENDS
ON VARIABILITY OF PROCESS**

**5 YEAR RECORDS... FELT NOT
IMPORTANT IF ACTED ON MUCH
SOONER -- DEPENDS OF LEVEL OF
IMPLEMENTATION RESOURCES**

FOLLOWUP:

**NEED FOR TEAM APPROACH TO
COORDINATING
RECORDKEEPING/REPORTING ISSUES
W/STATES AND REGIONS: SEVERAL
VOLUNTEERS**

**TECHNICAL SOURCE CATEGORY-
SPECIFIC GUIDANCE ON PTE
CALCULATIONS**

ONCE-MAJOR ALWAYS MAJOR ISSUE

**EPA STATE VISITS IN TANDEM WITH
STATES**

COMMUNICATE ISSUES ON TTN

Appendix C
Communications and Delegations

Delegation/Communication Interactive Resources Subgroup

The Resources subgroup consisted of seven persons, including the moderator. The charge of the resources subgroup was to identify implementation resource issues and needs facing State and Local agencies during air toxic program development and the process of delegation of federal responsibilities. The items and issues discussed during the breakout session are listed below:

1. Program Planning

Participants identified the development of air toxic programs as an area of concern. It was a consensus of the group that proper emphasis was not being placed on the development of program in the states. Due to the newness of air toxics regulation, adequate attention and priority was not being devoted to air toxics regulation. Management of the S/L agencies are more concerned with the development of Title V permit programs. The S/L managers have placed a low priority on air toxics; thus, the program are generally under staffed and financed. It was noted that in many agencies, the personnel assigned to address air toxics are serving in dual capacities and sometimes as many as three different program areas.

Participants stated that EPA needs to reassess what each S/L agency commitment to air toxics to determine and outline the program's ability to effectively implement and enforce provisions of title III. The participants further stated that EPA should conduct meeting with S/L managers at the Director level to ascertain the S/L's vision of title III and its implementation thereof. It was conveyed that EPA should emphasize a "holistic" approach to air toxics program development. Such a program would include: inspections, enforcement, training, necessary materials/tools, and standard operating procedures. Additionally, EPA should provide S/Ls with resource analysis to assist in determining what implementation activities would be necessary. The resource analysis should include a determination of "adequate" resources which would support early delegation of implementation activities. Equally, there should be well defined procedures for program implementation.

2. Training

The EPA needs to enhance its training program regarding title III. Participants felt that the satellite training system was an extremely appropriate mechanism to present training courses; however, training opportunities should be more frequent and more specific. Courses presenting a "step-by-step" process is the preferred mode of training. The tele-course on dry cleaning was cited as an example of the most useful format. Actual on-site, equipment specific, and hands on experiences are more beneficial to staff personnel. Group members stated EPA should develop a training certification program for owners and operators which must be attended by facility personnel subject to a particular standard. This effort will ensure facility owners and operators are abreast of the affecting regulations prior to compliance and/or inspections. The program can either be sponsored by EPA or on-site by facility training coordinators.

Secondly, the group stated that the satellite programming should be enhanced. The traditional "talking head" approach was the least effective mechanism of presenting information. EPA should seek more expertise in programming development. The employ persons with "quasi" professional skills and experience in acting and group presentations, in addition to EPA technical and program development staff. Finally, future courses should focus on the "nut & bolts" of implementation when addressing specific standards and not so much of the background and regulatory development process.

3. Source Identification/Location

The process of self identification will not work. EPA along with the SILs should devise a mechanism to adequately identify sources. The development of an SOP on source identification process and a listing of potential databases or agencies/offices which could facilitate source identification should be produced. There should be some mechanism of effecting quality assurance on lists provided by EPA during standard development. It was the understanding of the group that EPA had entered into a contract with one of the EPA contractors for the development of a list of the 174 source categories and a correlation between the SIC and SCC codes for sources affected by the standards. This document and/or listing should be provided to the SIL agencies as expeditiously as

possible. Further, EPA should make every effort to assist SIL agencies in the location and identification of affected source in each Region.

The EPA should enter into a cooperative agreement with other governmental offices (e.g., IRS) which require facilities to report SIC codes when filing and/or satisfying annual requirements (e.g., tax returns). This will eventually create a database of all source which EPA, State, and Local agencies could utilize during source identification processes. EPA and/or SIL should develop a database management system to house such information. Such a system could be integrated with the graphic information system to assist in source location. Are there areas where duplication of effort is a problem?

4. *Miscellaneous Issues*

- (1) EPA should initiate a national effort to identify and develop a compilation of testing methods for the monitoring and sampling of hazardous air pollutants. EPA should develop and conduct the necessary training to appraise SIL agencies of the newly developed methods.*
- (2) EPA should provide more intense and more frequent AIRS training at different locales throughout the Regions.*
- (3) There should be more integration between title III and title V. The two groups seemingly do not communicate enough. There are a number of implementation issue affecting both programs to warrant more interaction. Common interests and needs are not being shared and/or translated.*

DELEGATION/COMMUNICATION INTERACTIVE SESSION

PROBLEM: State/local agencies may be able to demonstrate that a rule (or state authorities submittal) will result in equivalent emission reductions but cannot obtain approval because they cannot meet the minimum compliance and enforcement requirements as specified in Subpart E, the MACT standard, and the General Provisions.

BACKGROUND: In particular, Section 63.93 (Rule Substitution) allows a state/local agency to seek approval for a rule that is different than a federal rule. In this submittal, the state/local agency must demonstrate that implementation and enforcement of the state rule results in as great or greater emission reductions for each affected source as the implementation and enforcement of the otherwise applicable federal rule.

A potential obstacle to the delegation of authority is the interpretation of adequate enforcement mechanisms. Alternative enforcement mechanisms, taken in conjunction with the other provisions of a rule, can result in emission reductions that are at least as stringent as the federal rule.

The issue then becomes defining the purpose of the enforcement provisions. EPA may choose to maintain enforcement provisions to ensure that the delegated standard meets minimum federal requirements for enforceability. In this case, the EPA's risk is minimized relative to the ability to take enforcement action based on past violations.

Conversely, they may choose to accept the state/local proposed enforcement provisions. In this case, the EPA must depend on the state/local agency enforcement provisions. In the event that the delegation is subsequently withdrawn for any reason, the EPA could then impose the federal enforcement provisions.

Examples: Five year recordkeeping requirements for area sources versus an alternative two year retention or source inspection whichever is greater, where the alternative is justified on the basis of other rule/program provisions (such as a source-category specific training program).

Recommendations:

Key staff from the Office of General Counsel, Office of Enforcement and Compliance Assurance, Office of Air Quality Planning and Standards, and other key EPA offices should meet and develop a policy statement regarding this issue. Key STAPPA/ALAPCO staff should be consulted as early as possible in the process.

Lead: Karen Blanchard-OAQPS

Timing: Meetings by 11/1/94; Decision by 12/1/94.

RELATED QUESTIONS: Can the state/local agencies adopt and submit for equivalency a substitute General Provisions Rule that could provide an avenue for approval of acceptable alternative administrative provisions?

Should/does Section 112(1) impose any additional requirements over

those specified in the applicable MACT standard, the applicable provisions of the General Provisions, and the Title V program?

DELEGATION/COMMUNICATION INTERACTIVE SESSION

PROBLEM: There currently lacks a defined process for resolving issues that may arise with delegation requests. This may result in unnecessary delays in approval of section 112(1) equivalency requests.

BACKGROUND: Currently, the EPA is completing the necessary documentation to delegate authority to the Regional Offices to sign-off on equivalency requests. However, EPA Headquarters (OGC, OECA, OAQPS, OSWER) will retain the authority to disapprove the request within a specified time period.

The EPA is also completing the development of a formal process for the review of formal Section 112(1) submittals within specified time limits. However, there is no such process for the informal resolution of issues.

Section 112(1) submittals are being prepared and submitted to the EPA Regional Offices. As these submittals are prepared, issues are likely to be identified which will require the input of the EPA Headquarters. In particular, the first submittals are likely to be carefully reviewed because they may set precedents for subsequent submittals.

It would be useful to have a defined informal process for resolving delegation issues. This may involve a tiered approach whereby issues are resolved at a staff level, if possible, followed by management resolution if necessary. In any case, the state/local agencies should be allowed to participate in the resolution process at an early stage.

EXAMPLES: Top-down T-BACT versus case-by-case MACT; alternative enforcement provisions.

RECOMMENDATION: The EPA should define, with input from key STAPPA/ALAPCO staff, a process to resolve delegation issues, in a timely manner, prior to the formal Section 112(1) submittal.

Lead: Sheila Milliken

Timeframe: Draft prepared by 12/1/94. Final by 2/1/95.

PARKING LOT

1. Develop and/or make available resources for developing Subpart E submittals.
 - Two case studies have been completed and the results have not been disseminated to stakeholders.
 - Recommend that model Subpart E submittals are developed. Gear the model submittals for those source categories or 112 provisions that we expect S/L submittals.
 - Recommend that some forum/database is made available to allow Subpart E submittals to be accessed by all stakeholders.
2. Are the Subpart E provisions adequate to allow risk based programs to demonstrate equivalency.
 - This was discussed at great length during reg development.
 - We may not know until a submittal is evaluated.
3. Is there enough time for S/Ls to evaluate a provision, and decide whether or not a rule substitution is needed, before this provision must be written into part 70 permit?
 - Can the effective date of the MACT be delayed?
4. Can Subpart E authority be used to allow S/Ls use Title I/SIP VOC provisions to substitute for MACTs; or allow S/Ls to demonstrate that Title I/SIP VOC provisions can substitute for MACTs.
 - I.e., Stage I Gasoline MACT requirements and similar SIP controls.
 - If a source is subject to both provisions (SIP & MACT), do both have to be written into part 70 submittal?
5. Clarify MACT standards as far as area sources requirements are concerned.
 - Language or tables (could be similar to General Provision comparison table) should be included that clearly delineate enforcement, MR&R, part 70 requirements.
6. Can there be State only requirements in Subpart E submittals?
 - If a S/L submits a regulation that includes other requirements, information, or whatever that they do not want as part of the submittal; thus, federally enforceable.
7. Can Subpart E submittals be used to approve S/L multi-media regulations?
 - I.e., a state may submit a rule that incorporates MACT and RCRA air requirements.
 - NY developed a rule that includes dry cleaner and OSHA requirements.
8. Is 63.94 broad enough for S/L needs?
 - Is this provision flexible enough to allow non-part 70 sources/programs to be approved.

9. Can Subpart E approve innovative controls substituting for MACT?

- Is this a function for General Provisions?

10. What happens if a MACT standard is revised after a 112(1) submittal has been approved?

- Does the 112(1) approval need to be revisited/resubmitted?
- What is the time period for implementing and/or approving the 112(1) submittal after the amendment of the MACT?

11. Can Subpart E be used to approve a submittal of a State regulation that contains requirements for more than one source category covered by more than one MACT?

- If a State has one rule that covers both the HON and the Petroleum Refinery MACT requirements.

MACT Development/Communication

Draft Workgroup Summary Air Toxics Workshop

In addressing the topic of Communications/Delegations, our workgroup decided to concentrate on the MACT development. It was agreed that an efficient and workable communication network is vital to the success of the developmental process. Headquarters, the regions, the states and local agencies must all coordinate their efforts together. Every link in the chain should be involved, from the inspector in the field to the directors in Washington, D. C.!

One of the most common complaints is that important information doesn't always reach the staff level people who are the most actively involved with day-to-day business. One reason is that the names and duties of specific people in the network are not known. For example, someone at OAQPS may want to send some information on inspecting dry cleaning facilities to inspectors at a local agency. Not knowing specific names, the information is sent to the agency director. It may or may not reach the inspectors for whom it was intended. Sending the information directly to the specific person would eliminate this problem.

To this end, one of the recommendations of this workgroup is to establish a nation-wide directory of staff contact people who work with air toxics. This list would include EPA, state and local personnel. It could be designed to give quick and easy access to desired information. The list would need to be updated semi-annually or annually to keep it current. The list could be located on an electronic bulletin board, such as TTN or MAPS. It was mentioned that such a directory already exists on NATICH, but is not maintained very well. A serious effort could be made to upgrade the NATICH directory and then use it for this purpose.

Although the directory is a good idea, it will not be very useful to someone without the computer capability to access the bulletin boards. We need to know those agencies/people who are presently unable to access the bulletin boards. They would probably mostly be local agencies that have small budgets. When any information is made available to these agencies, it must be in hard copy form.

In light of the above discussion, another recommendation of this workgroup is to conduct a survey of all the state and local agencies. A standard questionnaire could be developed and sent to all the regions. They in turn could send copies to all of their state and local agencies. First, we could ask for a complete list of all agency personnel dealing with air toxics. This includes name, address, phone number, fax number and area of expertise. Second, we could ask them if they are able to access

the bulletin boards. This same survey could be used to gather information regarding the MACT development process. The following are additional questions that could be asked:

- Are there any source categories that are prevalent in your state or locality?
- Does your agency have any special expertise with certain source categories?
- Do you have any source identification information to share?
- Any interest in volunteering for MACT advisory groups, where all parties have an equal say?
- Any interest in an IPA exchange for short periods of time?
- Do you have reasonable access to a satellite dish for training purposes?
- Would you be interested in regularly scheduled Title III teleconference calls between state, local and EPA personnel?

The information obtained through this survey, especially the personnel directory, would be available to anyone interested. It should greatly help all parties involved to communicate more efficiently. Effective communication between all levels of state, local and federal personnel is essential. The result would be better MACT standards development and implementation. Hopefully, the above recommendations will help us achieve this goal.

Appendix D
Accidental Release Prevention Program

**Summary Section 112(r) Interactive Session
Air Toxics Workshop**

Approximately 25-30 attended the breakout session on section 112(r). Overall the session appeared to be successful and provided an opportunity for State and local air officials to give input on the contents of the supplemental notice and to discuss implementation concerns.

PART I In general the comments on the supplemental rule were:

- EPA should allow State participation on the workgroup itself;
- Concern regarding the modeling for worst case scenario;
- General support for the development of a "modified green book approach" which would simplify the worst case determination (this would probably need to be proposed in supplemental notice);
- Strong support for using a tiering approach, although there was not a consensus to a particular one - little support appeared for just modifying specific components;
- Little negative comment from States with regard to integrating section 112(r) with part 70 as long as the States are still given the flexibility to have an alternate State agency undertake the actual implementation;
- Regional officials were still disagreeing with regard to approval of part 70 program and indicated many of the Regions still had not identified who would be in charge of various aspects of section 112(r) i.e., program approval, oversight, implementation in some cases, and enforcement;
- Regions and States generally supported trying to consolidate the audits required by section 112(r) and the inspections under part 70 for the permitted sources; some thought the auditing system should stand alone separate from part 70.
- They also strongly supported establishing reporting requirements in the rule, similar to ARIP, which compel the source to provide information in instances of a "significant accidental release." This information would not be used for a substitute for the emergency response notification but would allow EPA and the State to obtain accurate post-accident information. This would provide a mechanism to track accidents, trends, and evaluate the program;

- State and Regional Offices agreed that notification should not duplicate requirements in SARA. Use of a term other than "notification" was suggested.

PART II This session focused on problem areas, resources, liability, development of expertise, and program development. Key comments follow:

Resources

- State and local programs need to know the costs of implementation the requirements. What type of resource levels are needed?
- Title V fees should be used for title V sources. Section 105 grants for the non part 70 sources.
- State and local programs want guaranteed funds to ramp up program and for continued activities.
- New approach to resource allocation needed.
- EPA and States should make OMB and Congress aware of the need for section 105 block grants for section 112(r).
- Several States with operating programs have self funding mechanisms which are based on the amount of chemical onsite, i.e., Delaware and New Jersey.

Developing Expertise*

- Areas that demand greatest challenge -- training which teaches what should be happening at plants doesn't exist.
- Inconsistencies with models used for worst case and offsite consequence analyses need to be worked out.
- EPA should develop a national code to avoid accidental releases.
- EPA needs to define what it takes to review a risk management plan/program.
- Guidance from EPA to sources regarding compliance is needed.
- Guidance from EPA to implementing agency is needed.
- Expertise should not be element by element.
- Identifying responsibilities for implementing agencies first.

- OSHA has training for process safety inspecting which may be useful.

- RISK COMMUNICATORS NEEDED!

* Note: Views depended on perception of scope of program. Some States believed that State and local officials should be spending most of their time at source. Others believed that RMP could provide important information for community planning.

Liability

- States understand that they have no legal liability. They believe they will be sued anyway. They requested the Federal Government provide letters of identification.

- perceived liability is a major obstacle.

- No approval mechanism when RPM received but acceptance and review means implicit approval.

- Accidental release prevention differs from other CAA programs due to acute nature - immediate deaths and injuries.

- Cost of suing may reduce lawsuits possibility of frivolous suits.

- Merits of program outweigh problems.

- Indemnification of State and locals who receive delegation requested.

Program Development/Communication

- Dovetail reviews of section 112(r) with part 70.

- Requirements may not be implemented by air agency.

- MOA between State agencies necessary.

- Can 105 money be transferred to non-air agency?