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# NESHAP/Clean Air Act: U.S. Environmental Protection Agency Final Rule Addressing Publicly Owned Treatment Works/Residual Risk and Technology Review

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The United States Environmental Protection Agency (“EPA”) issued a final rule addressing the Clean Air Act National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Publicly Owned Treatment Works (“POTW”).

The final rule was published in the Federal Register on October 26th. See 82 Fed. Reg. 49513.

A key portion of the final rule finalizes the Clean Air Act NESHAP residual risk and technology review (“RTR”) conducted for the POTW source category.

The 1990 amendments to the Clean Air Act required EPA to promulgate NESHAPs in order to reduce such emissions from various source categories. Emission limits are required to be developed for each category of sources. Development of the emission limits is initially based on an agency review of applicable technology-based standards. The prescribed standards may mandate the use of control equipment, process changes, additional maintenance, and/or material substitution.

The federal agency is then required to undertake an analysis in which the technology-based standards are reviewed and revise them (as necessary taking into account developments and practices, processes and control technologies): no less frequently than every eight years. See Section 112 (d)(6) of the Clean Air Act.

The residual risk review requires the evaluation of the risk to public health remaining after application of the technology-based standards. The standards must be revised, if necessary, to provide an ample margin of safety to public health or to prevent, taking into consideration cost, energy, safety, and other relevant factors, an adverse environmental effect.

EPA states in the final rule that it determined that risks resulting from emissions from the POTW source category are acceptable. It further states in part:

. . . Specifically, the maximum individual cancer risk (MIR) 2-in-1 million based on allowable emissions and 1-in-1 million based on actual emissions, well below the presumptive limit of acceptability (100-in-1-million), and other health information indicates there is no appreciable risk of adverse chronic or acute non-cancer health effects due to HAP emissions from the source category.

The final rule also finalizes other changes to the POTW NESHAP which include:

- Revised names and definitions of the subcategories
- Clarification of applicability criteria
- Revised regulatory provisions pertaining to emissions during periods of startup, shutdown, and malfunction
- Initial notification requirements for existing Group 1 and Group 2 POTW
- Requirements for new or reconstructed Group 1 POTW to comply with both the requirements and the POTW NESHAP and those in the applicable NESHAP for which the POTW acts as a control agent
- Requirements for electronic reporting

[A copy of the final rule can be downloaded here.](#)