ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0415; FRL–10006–76–OAR]

RIN 2060–AU23

National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Miscellaneous Viscose Processes and Cellulose Ether Production source categories regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Cellulose Products Manufacturing. The EPA is finalizing the proposed determination that the risks from both source categories are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. The EPA identified no new cost-effective controls under the technology review to achieve further emissions reductions. These final amendments address emissions during startup, shutdown, and malfunction (SSM) events; add electronic reporting requirements; add provisions for periodic emissions performance testing for facilities using non-recovery control devices; add a provision allowing more flexibility for monitoring of biofilter control devices; and make technical and editorial changes. Although these amendments are not expected to reduce emissions of hazardous air pollutants (HAP), they will improve monitoring, compliance, and implementation of the rule.

DATES: This final rule is effective on July 2, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 2, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0415. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Kelley Spence, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3158; fax number: (919) 541–0516; and email address: *spence.kelley@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, Office of Enforcement and Compliance Assurance (2227A), U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

%R percent recovery
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CEP Cellulose Ethers Production
CFR Code of Federal Regulations
CMC carboxymethyl cellulose
CPMS continuous parameter monitoring system
CS_2 carbon disulfide
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
FTIR Fourier Transform Infrared
H_2S hydrogen sulfide
HAP hazardous air pollutants(s)
HCl hydrochloric acid
HEC hydroxyethyl cellulose
HI hazard index
IBR incorporation by reference
ICR information collection request
km kilometers
km^2 square kilometers
lbs/yr pounds per year
MACT maximum achievable control technology
MC methyl cellulose
mg/kg-day milligrams per kilogram per day
MIR maximum individual risk
MVP Miscellaneous Viscose Processes
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NaOH sodium hydroxide
NESHAP national emission standards for hazardous air pollutants
ng/dscm nanograms per dry standard cubic meter
NRDC National Resources Defense Council
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
the Court the United States Court of Appeals for the District of Columbia Circuit
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compounds

Background information. The EPA is finalizing the September 9, 2019, proposed determinations regarding the Cellulose Products Manufacturing NESHAP RTR and the proposed revisions to this NESHAP to address emissions during SSM events and to improve monitoring, compliance, and implementation. We summarize some of the more significant comments received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not discussed in this preamble and the EPA's responses to those comments is available in the memorandum titled *National Emissions Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* Docket ID No. EPA–HQ–OAR–2018–0415. A "track changes"

version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS code [1]
Miscellaneous Viscose Processes	Cellulose Products Manufacturing	325211, 325220, 326121, 326199.
Cellulose Ethers Production	Cellulose Products Manufacturing	325199.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/cellulose-products-manufacturing-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by August 31, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements. Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION**

CONTACT section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, the EPA must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor under CAA section 112(d)(2). The Agency may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, the EPA must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, the EPA must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 47348, September 9, 2019.

B. What is the source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Cellulose Products Manufacturing NESHAP on June 11, 2002 (67 FR 40044). The standards are codified at 40 CFR part 63, subpart UUUU. The cellulose products manufacturing industry includes the Miscellaneous Viscose Processes (MVP) source category and the Cellulose Ethers Production (CEP) source category. The sections below provide details on each source category and how the NESHAP regulates the HAP emissions from each source category.

1. Miscellaneous Viscose Processes

The MVP source category includes any facility engaged in the production of cellulose food casings, rayon, cellophane, or cellulosic sponges, which includes the following process steps: Production of alkali cellulose from cellulose and sodium hydroxide (NaOH); production of sodium cellulose xanthate from alkali cellulose and carbon disulfide (CS_2) (xanthation); production of viscose from sodium cellulose xanthate and NaOH solution; regeneration of liquid viscose into solid cellulose;[2] and washing of the solid cellulose product (see 65 FR 52171–2, August 28, 2000).

There are currently five MVP facilities in operation in the United States. While the NESHAP includes standards for rayon manufacturing, all rayon plants in the U.S. have shut down since promulgation of the original rule.

The Cellulose Products Manufacturing NESHAP includes emission limits, operating limits, and work practice standards for MVP emission sources. MVP operations are required to reduce the total sulfide emissions from their process vents and control the CS_2 emissions from their CS_2 unloading and storage operations. Cellophane operations are required to reduce the toluene emissions from their solvent coating operations and toluene storage vessels. Additionally, MVP operations must comply with work practice standards for closed-vent systems and heat exchanger systems. The NESHAP also includes various operating limits, initial performance tests, ongoing monitoring using continuous parameter monitoring systems (CPMS) and continuous emissions monitoring systems (CEMS), recordkeeping, and reporting. The rule was amended in June 2005 (70 FR 36524) to correct the definition for "viscose process change" under 40 CFR 63.5610.

2. Cellulose Ethers Production

The CEP source category includes any facility engaged in the production of carboxymethyl cellulose (CMC), hydroxyethyl cellulose (HEC), hydroxypropyl cellulose (HPC), methyl cellulose (MC), or hydroxypropyl methyl cellulose (HPMC), which

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

[2] The MVP operations use different methods and equipment to complete the regeneration step. Cellulose food casing operations extrude viscose through a die, forming a tube, while rayon operations extrude viscose through spinnerets, forming thin strands. Cellophane operations extrude viscose through a long slit, forming a flat sheet, while cellulosic sponge operations feed a mixture of viscose and Glauber's salt into a sponge mold.

includes the following process steps: Production of alkali cellulose from cellulose and NaOH; reaction of the alkali cellulose with one or more organic chemicals to produce a cellulose ether product;[3] washing and purification of the cellulose ether product; and drying of the cellulose ether product (see 65 FR 52171; August 28, 2000).

There are currently three CEP facilities in operation in the United States. The Cellulose Products Manufacturing NESHAP includes emission limits, operating limits, and work practice standards for CEP emission sources. CEP operations are required to control the HAP emissions from their process vents, wastewater, equipment leaks, and liquid streams in open systems. Additionally, CEP operations must comply with work practice standards for closed-vent systems and heat exchanger systems. The NESHAP also includes various operating limits, initial performance tests, ongoing monitoring using CPMS and CEMS, recordkeeping, and reporting. The rule was amended in June 2005 (70 FR 36524) to correct the definition for "cellulose ether process change" under 40 CFR 63.5610.

C. What changes did we propose for the Cellulose Products Manufacturing NESHAP in our September 9, 2019, proposal?

On September 9, 2019, the EPA published a proposed rule in the **Federal Register** for the Cellulose Products Manufacturing NESHAP, 40 CFR part 63, subpart UUUU, that presented the results of the RTR analyses, proposed RTR determinations, and several proposed rule changes. Based on our RTR analyses, the EPA proposed to determine that the risks from the source categories covered by the Cellulose Products Manufacturing NESHAP are acceptable, that the current NESHAP provides an ample margin of safety to protect public health, and that no new cost-effective controls are available that would achieve further emissions reductions.

The proposed rule changes included the following:

- Amendments to the SSM provisions;
- new periodic air emissions performance testing for facilities that use non-recovery control devices;
- new reporting provisions requiring affected sources to electronically submit compliance notifications, semiannual reports and performance test reports using the EPA's Compliance and Emissions Data Reporting Interface (CEDRI);
- amendments to the operating limits and compliance requirements in 40 CFR 63.5535(i)(7) to allow facilities the flexibility to monitor conductivity as an alternative to pH monitoring for determining compliance of biofilter control devices;
- revision of the requirements in 40 CFR 63.5505 to clarify that CS_2 storage tanks that are part of a submerged unloading and storage operation subject to 40 CFR part 63, subpart UUUU, is not subject to 40 CFR part 60, subpart Kb;
- revision of the performance test requirements in 40 CFR 63.5535(b) and 40 CFR 63.5535(c) to specify the conditions for conducting performance tests;
- revisions to Table 4 to Subpart UUUU of Part 63 to correct an error in the reference to a test method appendix;
- revisions to the performance test requirements in Table 4 to Subpart UUUU of Part 63 to add IBR for ASTM D6420–99 (Reapproved 2010), ASTM D5790–95 (Reapproved 2012), and ASTM D6348–12e1;
- revision to the reporting requirements in 40 CFR 63.5580 and the reporting and recordkeeping requirements in Tables 8 and 9 to Subpart UUUU of Part 63 to include the requirements to record and report information on failures to meet the applicable standard and the corrective actions taken; and
- revisions to the General Provisions applicability table (Table 10 to Subpart UUUU of Part 63) to align with those sections of the General Provisions that have been amended or reserved over time.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the MVP and the CEP source categories. This action also finalizes changes to the Cellulose Products Manufacturing NESHAP, including removal of the SSM exemption, addition of electronic reporting, addition of periodic emissions performance testing, amendments allowing more flexibility for monitoring of biofilter control devices, and other clarifications and corrections.

A. What are the final rule amendments based on the risk review for the source category?

1. Miscellaneous Viscose Processes

The EPA is finalizing its proposed finding that risk due to emissions of air toxics from this source category is acceptable, and is finalizing its proposed determination that the current NESHAP provides an ample margin of safety to protect public health and prevent an adverse environmental effect. Based on these determinations, we are not finalizing any revisions to the Cellulose Products Manufacturing NESHAP based on the analyses conducted under CAA section 112(f) for the MVP source category, and we are readopting the standards.

2. Cellulose Ethers Production

The EPA is finalizing its proposed finding that risk due to emissions of air toxics from this source category is acceptable, and is finalizing its proposed determination that the current NESHAP provides an ample margin of safety to protect public health and prevent an adverse environmental effect. Based on these determinations, we are not finalizing any revisions to the Cellulose Products Manufacturing NESHAP based on the analyses conducted under CAA section 112(f) for the CEP source category, and we are readopting the standards.

B. What are the final rule amendments based on the technology review for the source category?

1. Miscellaneous Viscose Processes

The EPA is finalizing its proposed determination that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6).

2. Cellulose Ethers Production

The EPA is finalizing its proposed determination that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

The EPA is finalizing the proposed amendments to the Cellulose Products Manufacturing NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551

[3] To produce CMC, HEC, HPC, MC, and HPMC, alkali cellulose is reacted with chloroacetic acid, ethylene oxide, propylene oxide, methyl chloride, and a combination of methyl chloride and propylene oxide, respectively.

F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.D of the preamble to the proposed rule (84 FR 47366, September 9, 2019), the EPA proposed to eliminate the SSM exemption in 40 CFR 63.5515(a) so that the Cellulose Products Manufacturing NESHAP would apply at all times (see 40 CFR 63.5515(a)), including during SSM events, consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). In addition to proposing that the SSM exemption be eliminated, we proposed to remove the requirement for sources to develop and maintain an SSM plan, as well as certain recordkeeping and reporting provisions related to the SSM exemption.

The EPA is finalizing the proposed revision of 40 CFR 63.5515(a) to eliminate the SSM exemption. The EPA is also finalizing the removal of the SSM exemption in 40 CFR 63.5555(d) that states deviations that occur during SSM events are not violations if a facility meets the general duty requirements. In addition, we are updating the references in Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU, including the references to 40 CFR 63.6(f)(1) and (h)(1)—the provisions vacated by *Sierra Club* v. *EPA.* Consistent with that decision, the standards in this rule will now apply at all times. We are also revising Table 10 to Subpart UUUU of Part 63 to change several references related to requirements that apply during periods of SSM. For example, we are eliminating the incorporation of the General Provisions' requirement that sources develop an SSM plan. We also are eliminating and revising certain recordkeeping and reporting requirements related to the SSM exemption.

The EPA did not propose separate standards for malfunctions. As discussed in section IV.D.1 of the September 9, 2019 proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For the MVP source category and the CEP source category, it is unlikely that a malfunction would result in a violation of the standards. Facilities using thermal oxidizers as pollution control equipment indicated in the 2018 information collection survey that interlocks shut down processes when an oxidizer malfunction occurs, and facilities may also have back-up oxidizers that could be used to treat the emissions. Refer to section IV.D.1 of the preamble to the proposed rule for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, the EPA is finalizing revisions to the Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise reporting and record keeping requirements as they relate to malfunctions, as further described below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.5515(a) that the standards apply at all times. Refer to section IV.C of this preamble for a detailed discussion of these amendments.

D. What other changes have been made to the NESHAP?

The EPA is finalizing new requirements for periodic emissions testing, electronic reporting, and biofilter effluent conductivity monitoring. The periodic emissions testing is part of an ongoing effort to improve compliance with various federal air emission regulations. The new provisions require facilities that use non-recovery control devices to conduct periodic air emissions performance testing, with the first of the periodic performance tests to be conducted within *July 2, 2023,* and thereafter no longer than 5 years following the previous test. The periodic emissions tests will ensure control devices are properly maintained over time, thereby reducing the potential for acute emissions episodes.

The electronic reporting provisions require owners and operators to submit all initial notifications, compliance notifications, performance test reports, performance evaluation reports, and semiannual reports electronically through the EPA's Central Data Exchange (CDX) using CEDRI. A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available at Docket ID Item No. EPA–HQ–OAR–2018–0415–0058.

The new biofilter effluent conductivity monitoring will allow owners and operators the flexibility to monitor either conductivity or pH to determine continuous compliance of biofilter control devices with the standards.

In addition to these new requirements, we are also finalizing several technical and editorial corrections and incorporating by reference three test method standards, in accordance with the provisions of 1 CFR 51.5. For more information on these changes, see 84 FR 47370–47371, September 9, 2019.

E. What are the effective and compliance dates of the standards?

The revisions to the NESHAP being promulgated in this action are effective on July 2, 2020. For sources that commenced construction or reconstruction before the notice of proposed rulemaking was published on September 9, 2019, the deadline to comply with the amendments in this rulemaking is no later than 180 days after the effective date of the final rule. Affected sources that commenced construction or reconstruction after September 9, 2019, must comply with all of the requirements of the subpart, including the amendments, immediately upon the effective date of the standard, July 2, 2020, or upon startup, whichever is later.

Through our work with other similar industries required to convert to electronic reporting, the EPA has found a period of 180 days is generally necessary to successfully install necessary hardware and software; become familiar with the process of submitting performance test results electronically through the EPA's CEDRI; test these new electronic submission capabilities; and reliably employ

electronic reporting. Our experience with similar industries has shown that facilities generally require a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during SSM periods and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. Based on our assessment of the timeframe needed for facilities to comply with the amended rule, the EPA determined that a compliance date of within 180 days of the final rule's effective date was practicable. In the proposal, we solicited comment on whether the 180-day compliance period was reasonable and specifically requested sources provide information regarding the specific actions they would need to undertake to comply with the amended rule. We received no feedback on the proposed compliance deadlines. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable. Thus, all sources existing at the time the proposed rulemaking was published on September 9, 2019, must be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date.

The final rule also requires sources that use a non-recovery control device to comply with the standards to conduct periodic performance tests every 5 years. Each source that commenced construction or reconstruction on or before September 9, 2019, and uses a non-recovery control device to comply with the standards must conduct the first periodic performance test on or before July 3, 2020, and conduct subsequent periodic performance tests no later than 5 years thereafter following the previous performance test. For each new and reconstructed affected source that commences construction or reconstruction after September 9, 2019, and uses a non-recovery control device to comply with the standards, the owners and operators must conduct the first periodic performance test no later than 5 years following the initial performance test required by 40 CFR 63.5535 and conduct subsequent periodic performance tests no later than 5 years thereafter following the previous performance test. We determined that a compliance date of 3 years for the first periodic performance test for sources constructed or reconstructed on or before September 9, 2019, was necessary to avoid scheduling issues that may arise as affected sources compete for a limited number of testing contractors.

IV. What is the rationale for our final decisions and amendments for the source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket, Docket ID No. EPA–HQ–OAR–2018–0415.

A. Residual Risk Review

1. Miscellaneous Viscose Processes

a. What did we propose pursuant to CAA section 112(f) for the source category?

The EPA estimated risks based on actual and allowable emissions from MVP sources subject to the Cellulose Products Manufacturing NESHAP. For the MVP source category, we estimated the chronic baseline inhalation cancer risk to be less than 1-in-1 million, with the risk driver being acetaldehyde emissions from viscose process equipment. The total estimated cancer incidence from MVP emission sources based on actual and allowable emission levels is 0.000006 excess cancer cases per year, or one case in every 167,000 years. Emissions of acetaldehyde contributed 100 percent to this cancer incidence. Based on actual and allowable emissions, no people are exposed to cancer risks greater than or equal to 1-in-1 million. The maximum chronic noncancer target organ-specific hazard index (TOSHI) values for the source category, based on actual and allowable emissions, are estimated to be less than 1. Based on actual and allowable emissions, CS_2 emissions from viscose process equipment are the risk driver for respiratory risks. For the acute risk assessment, the maximum refined offsite acute noncancer hazard quotient (HQ) value for the MVP source category is less than 1 from CS_2 emissions (based on the acute (1-hour) ERPG–1 for CS_2). We proposed that environmental and multipathway risks are not an issue for the MVP source category because there are no HAP known to be persistent and bio-accumulative in the environment (PB–HAP), lead compounds, or acid gases (hydrochloric acid (HCl) or hydrogen flouride) identified in the emissions inventory. The assessment of facility-wide emissions indicated that none of the five MVP facilities have a facility-wide maximum individual cancer risk (MIR) greater than 1-in-1 million and the maximum facility-wide cancer risk is 1-in-1 million, driven by formaldehyde, cadmium compounds, and nickel compounds from a non-category fugitive area source. The total estimated facility-wide cancer incidence is 0.00006 excess cancer cases per year, or one case in every 16,700 years, with zero people estimated to have cancer risks greater than 1-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be less than 1, driven by source category emissions of CS_2 from viscose process equipment.

The risk assessment for this source category is contained in the report titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk* and *Technology Review Final Rule,* which can be found in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0415).

b. How did the risk review change for the source category?

The EPA has not made any changes to either the risk assessment or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the MVP source category since the proposal was published on September 9, 2019. We are finalizing the risk review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the risk review, and what are our responses?

The EPA did not receive any comments specific to the MVP risk review and proposed results. We received comments from one commenter opposing our proposed risk assessment and determination that no revision to the standards is warranted under CAA section 112(f)(2). Generally, the commenter was not supportive of the acceptability and ample margin of safety determinations and suggested changes to the underlying risk assessment methodology. Examples of the commenter's suggested changes to the EPA's risk assessment methodology included lowering the presumptive limit of acceptability for cancer risks to below 100-in-1 million, including emissions outside of the source categories in question in the risk assessment, and assuming that pollutants with noncancer health risks

have no safe level of exposure. The comments and information provided by the commenter did not change our risk analyses or the proposed results that risks from the MVP source category are acceptable and provide an ample margin of safety.

For detailed summaries and responses to comments, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal* (Docket ID No. EPA–HQ–OAR–2018–0415).

d. What is the rationale for our final approach and final decisions for the risk review?

As noted in the proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of 'approximately 1-in-10 thousand' " (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

The EPA evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risks from the MVP source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

2. Cellulose Ethers Production

a. What did we propose pursuant to CAA section 112(f) for the source category?

The EPA estimated risks based on actual and allowable emissions from CEP sources subject to the Cellulose Products Manufacturing NESHAP. For the source category, we estimated the chronic baseline inhalation cancer risk using current actual and allowable emissions to be 80-in-1 million with the risk driver being ethylene oxide emissions from cellulose ether process equipment used to produce HEC. The total estimated cancer incidence from CEP emission sources based on actual and allowable emission levels is 0.01 excess cancer cases per year, or one case in every 100 years. Emissions of ethylene oxide contributed 99 percent to this cancer incidence based on actual emissions. Based on actual or allowable emissions, 105,000 people are exposed to cancer risks greater than or equal to 1-in-1 million. The maximum chronic noncancer hazard index (TOSHI) values for the source category, based on actual and allowable emissions, are estimated to be less than 1. Based on actual and allowable emissions, respiratory risks are driven by chlorine emissions from cellulose ether process equipment. The maximum refined offsite acute noncancer HQ value for the source category is less than 1 from methanol emissions from cellulose ether process equipment (based on the acute (1-hour) reference exposure level for methanol). The highest HQ is based on an hourly emissions multiplier of 10 times the annual emissions rate. Acute HQs were not calculated for allowable or whole facility emissions. For the multipathway risk screening, one facility within the CEP source category reported emissions of multipathway pollutants of lead compounds, carcinogenic PB–HAP (arsenic), and noncarcinogenic PB–HAP (cadmium and mercury). Results of the worst-case Tier 1 screening analysis indicate that PB–HAP emissions (based on estimates of actual emissions) emitted from the facility exceeded the screening values for the carcinogenic PB–HAP (arsenic compounds) by a factor of 2, and for the noncarcinogenic PB–HAP (cadmium and mercury) is equal to the Tier 1 screening value of 1. Based on this Tier 1 screening assessment for carcinogens, the arsenic, cadmium, and mercury emission rates for the single facility are below our level of concern. The highest annual average lead concentration of 0.00001 milligrams per cubic meter is well below the National Ambient Air Quality Standard (NAAQS) for lead, indicating a low potential for multipathway impacts of concern due to lead. For the environmental risk screening, the three CEP facilities reported emissions of lead compounds, an acid gas (HCl), arsenic, cadmium, and mercury. In the Tier 1 screening analysis for PB–HAP, no exceedances of the ecological benchmarks evaluated were found. For lead, we did not estimate any exceedances of the secondary lead NAAQS. For HCl, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category. Results of the assessment of facility-wide emissions indicate that all three facilities modeled have a facility-wide MIR cancer risk greater than 1-in-1 million. The maximum facility-wide cancer risk is 500-in-1 million, mainly driven by ethylene oxide from sources outside the source category, including holding ponds, storage tanks, tank truck unloading, and equipment/vent releases. The next highest cancer risk was 80-in-1 million, based on whole facility emissions of ethylene oxide. The total estimated cancer incidence from the whole facility is 0.04 excess cancer cases per year, or one case in every 25 years, with 570,000 people estimated to have cancer risks greater than 1-in-1 million and 2,000 people with risks greater than 100-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be equal to 4, driven by emissions of chlorine from non-category sources.

The risk assessment for this source category are contained in the report titled *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

b. How did the risk review change for the source category?

The EPA did not make any changes to either the risk assessments or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the CEP source category since the proposal was published on September 9, 2019. We are finalizing the residual risk review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the risk review, and what are our responses?

The EPA received one comment opposing our proposed risk assessment and determination that no revision to the standards for the CEP source category are warranted under CAA section 112(f)(2). Generally, the commenter was not supportive of the

acceptability and ample margin of safety determinations and suggested changes to the underlying risk assessment methodology. The commenter asserted that changes to the EPA's risk assessment methodology were needed, including that the EPA should lower its presumptive limit of acceptability for cancer risks to below 100-in-1 million, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. The commenter supported the proposal's use of the 2016 Integrated Risk Information System (IRIS) value for ethylene oxide. The comments and information provided by the commenter did not change our risk analyses or the proposed results that risks from the CEP source category are acceptable and provide an ample margin of safety.

For a detailed summary of the comments and our responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal.*

d. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of 'approximately 1-in-10 thousand' " (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

The EPA evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risk from the CEP source category is acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

B. Technology Review

1. Miscellaneous Viscose Processes

a. What did we propose pursuant to CAA section 112(d)(6) for the source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the MVP source category are necessary (section IV.C of proposal preamble, 84 FR 47365, September 9, 2019). Based on the review, we did not identify any developments in practices, processes, or control technologies for the MVP source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum, *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule* (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

b. How did the technology review change for the source category?

The EPA has not made any changes to the technology review for the MVP source category since the proposal was published on September 9, 2019. We are finalizing the technology review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the technology review, and what are our responses?

We received comments from one commenter that did not support the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). In general, the commenter claimed that the EPA failed to consider all HAP emitted by the source category and that the EPA should set new standards for previously unregulated emission points/pollutants as part of the technology review.

The EPA disagrees with the commenter's assertion that the EPA failed to consider all HAP emitted and that we should set new standards for previously unregulated emission points/pollutants as part of the technology review. CAA section 112(d)(6) requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary, taking into account developments in practices, processes, and control technologies. Nothing in CAA section 112(d)(6) directs the Agency, as part of or in conjunction with the mandatory 8-year technology review, to develop new emission standards to address HAP or emission points for which standards were not previously promulgated. As shown by the statutory text and the structure of CAA section 112, CAA section 112(d)(6) does not impose upon the Agency any obligation to promulgate emission standards for previously unregulated emissions as part of the technology review.

When the EPA establishes standards for previously unregulated emissions, we do so pursuant to the provisions that govern initial standard setting—CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA section 112(d)(4) or CAA section 112(h). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

Though the EPA has discretion to develop standards under CAA section 112(d)(2) through (4) and CAA section 112(h) for previously unregulated pollutants at the same time as the Agency completes the CAA section 112(d)(6) review, any such action would not be part of the CAA section 112(d)(6) review, and there is no obligation to undertake such actions at the same time as the CAA section 112(d)(6) review. Additionally, given the court-ordered deadline of March 13, 2020, we did not have sufficient time to analyze existing data, determine if additional data were needed, collect additional data, and develop new emission standards. Therefore, we are not establishing new standards for previously unregulated emissions as part of this rulemaking.

For detailed summaries and responses regarding the technology review, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal* (Docket ID No. EPA–HQ–OAR–2018–0415).

d. What is the rationale for our final approach for the technology review?

The EPA evaluated all of the comments on the technology review and determined that no changes to the

review are needed. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed. Additional details of our technology review can be found in the memorandum titled *Technology Review for the Cellulose Products Manufacturing Industry,* which is available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

2. Cellulose Ethers Production

a. What did we propose pursuant to CAA section 112(d)(6) for the source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the CEP source category are necessary (section IV.C of proposal preamble, 84 FR 47365, September 9, 2019). Our review of the developments in technology for the source category did not reveal any changes in practices, processes, and controls that warrant revisions to the emission standards. Based on our review, we did not identify any developments in practices, processes, or control technologies for the CEP source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum, *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule* (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

b. How did the technology review change for the source category?

The EPA has not made any changes to the technology review for the CEP source category since the proposal was published on September 9, 2019. We are finalizing the technology review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the technology review, and what are our responses?

The EPA received comments from one commenter that did not support the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). In general, the commenter claimed that the EPA failed to consider all HAP emitted and that the EPA should set new standards for previously unregulated emission points/pollutants as part of the technology review. The commenter also claimed that the EPA did not consider leak detection and repair, fenceline monitoring, process changes, dry sorbent injection, or spray dryer absorbers as part of the technology review.

The EPA disagrees with the commenter's assertion that the EPA failed to consider all HAP emitted and that we should set new standards for previously unregulated emission points/pollutants as part of the technology review. See the discussion of this topic in section IV.B.1.c of this preamble.

The EPA also disagrees with the commenter's assertion that the EPA failed to consider leak detection and repair, fenceline monitoring, process changes, dry sorbent injection, or spray dryer absorbers as part of the technology review. The Agency did consider these options but found that they were not appropriate for the CEP emission sources. See the comment response document, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* for more details.

d. What is the rationale for our final approach for the technology review?

We evaluated all of the comments on the technology review and determined that no changes to the review are needed. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed. Additional details of our technology review can be found in the memorandum titled *Technology Review for the Cellulose Products Manufacturing Industry,* which is available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

C. Removal of the SSM Exemption

1. What did we propose?

The EPA proposed amendments to the Cellulose Product Manufacturing NESHAP to remove the provisions related to SSM that are not consistent with the requirement that the standards apply at all times. The proposed amendments included:

- Revising Table 10 (General Provisions) entry for 40 CFR 63.6(e)(1) and (2) by redesignating it as 40 CFR 63.6(e)(1)(i) and changing the "yes" in column 4 to a "no" and adding general duty regulatory text to 40 CFR 63.5515 that reflect the general duty to minimize emissions included in 40 CFR 63.6(e)(1) without the references to SSM;
- revising Table 10 by adding an entry for 40 CFR 63.6(e)(1)(ii) and including a "no" in column 4 because 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.5515;
- removing the SSM plan requirements by changing the Table 10 entry for 40 CFR 63.6(e)(3) from "yes" in column 4 to "no";
- revising the compliance standards in Table 10 by changing the entry for 40 CFR 63.6(f)(1) from "yes" to "no," redesignating 40 CFR63.6(h) as 40 CFR 63.6(h)(1), and changing the "yes" to "no" in column 4;
- revising the performance testing requirements in Table 10 by changing the entry for 40 CFR 63.7(e)(1) from "yes" in column 4 to a "no" and revising 40 CFR 63.5535(b) and 40 CFR 63.5535(c) to specify the conditions under which performance tests should be completed;
- revising the monitoring requirements entries in Table 10 for 40 CFR 63.8(c)(1)(i) and (iii) by changing the "yes" in column 4 to "no" and revising 40 CFR 63.5545(b)(1) to specify the ongoing operation and maintenance procedures;
- adding a new entry to Table 10 for 40 CFR 63.8(d)(3) with a "no" entered in column 4 and adding the language in 40 CFR 63.8(d)(3) to Table 9 except that the final sentence is replaced with the following: "The program of corrective action should be included in the plan required under 40 CFR 63.8(d)(2).";
- revising the recordkeeping requirements in Table 10 by redesignating the entries for 40 CFR 63.10(b)(2)(i) through (iv) as 40 CFR 63.10(b)(2)(i) and changing the "yes" in column 4 to a "no" and revising the recordkeeping requirements to Table 9 to clarify what records are required for SSM events;
- adding an entry for 40 CFR 63.10(b)(2)(ii) to Table 10 and including a "no" in column 4 and adding text to Table 9 that is similar to 40 CFR 63.10(b)(2)(ii) that describes the recordkeeping requirements during a malfunction;
- revising the recordkeeping provisions by adding entries for 40 CFR 63.10(b)(2)(iv), 40 CFR 63.10(b)(2)(v), and 40 CFR 63.10(c)(15) to Table 10 and adding "no" in column 4 for each new entry;
- revising the entry for 40 CFR 63.10(d)(5) in Table 10 by redesignating it as 40 CFR 63.10(d)(5)(i) and changing the "yes" in column 4 to a "no";
- adding reporting requirements to 40 CFR 63.5580 and Table 8 to eliminate periodic SSM reports as a stand-alone report and require sources that fail to meet an applicable standard at any time

to report the number, date, time, duration, list of affected source or equipment, estimate of the quantity of each regulated pollutant emitted, a description of the method used to estimate the emissions, and the cause of such events in the semiannual compliance report already required under this rule; and

• revising the reporting requirements in Table 10 by adding an entry for 40 CFR 63.10(d)(5)(ii) and including a "no" in column 4.

More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 47366–47370, September 9, 2019).

2. What changed since proposal?

We are finalizing the removal of the SSM exemption as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

Only one commenter submitted comments related to our proposed removal of the SSM exemption, and their comments generally supported the proposed removal of the SSM provisions but stated that the EPA cannot finalize a malfunction exemption, as proposed. The Agency did not propose a malfunction exemption in this rulemaking, therefore, this portion of the comment was not relevant. We evaluated the comments and determined that no changes to the proposed SSM provisions are warranted. A summary of these comments and our responses are located in the memorandum titled *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* in the docket for this rulemaking.

4. What is the rationale for our final approach for the SSM provisions?

The EPA evaluated all comments on the EPA's proposed amendments to remove the SSM exemption. For the reasons explained in the proposed rule, we determined that the proposed amendments remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule (84 FR 47366–47370, September 9, 2019). We are finalizing our approach for removing the SSM exemption as proposed.

D. Five-Year Periodic Emissions Testing

1. What did we propose?

The EPA proposed to add new requirements for periodic performance testing at 40 CFR 63.5535(g)(1), 40 CFR 63.5535(h)(1), and 40 CFR 63.5541 for facilities that use non-recovery control devices. We proposed that facilities constructed or reconstructed on or before September 9, 2019, conduct periodic air emissions performance testing every 5 years, with the first periodic performance test to be conducted within 3 years of the effective date of the revised standards and thereafter every 5 years following the previous test. For facilities that commence construction after September 9, 2019, we proposed a periodic performance test be completed within 5 years of the initial performance required by 40 CFR 63.5535 and that subsequent tests be conducted every 5 years thereafter.

2. What changed since proposal?

We are finalizing the 5-year periodic emission testing requirements for facilities that use non-recovery control devices as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

We did not receive any comments on the proposed 5-year periodic emission testing requirements for facilities that use non-recovery control devices.

4. What is the rationale for our final approach for the 5-year periodic emission testing?

For the reasons explained in the preamble to the proposed rule and taking into account the fact that the EPA received no comments relating to the proposed provisions, we are finalizing the requirement for facilities that use non-recovery control devices to conduct periodic emissions tests once every 5 years. The new performance tests will serve as a check on the accuracy of facilities' mass balance calculations and on the efficiency of the control devices used to achieve compliance with the standards. The new performance testing will ensure that control devices are properly maintained over time, thereby reducing the potential for acute emissions episodes.

E. Electronic Reporting

1. What did we propose?

The EPA proposed amendments to the Cellulose Products Manufacturing NESHAP to require owners and operators of MVP and CEP facilities to submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports through the EPA's CDX using CEDRI. Additionally, we proposed two broad circumstances in which electronic reporting extensions may be provided at the discretion of the Administrator. The EPA proposed these extensions to protect owners and operators from noncompliance in cases where they are unable to successfully submit a report by the reporting deadline for reasons outside of their control, including CDX and CEDRI outages and *force majeure* events, such as acts of nature, war, or terrorism.

2. What changed since proposal?

No changes have been made to the proposed requirement for owners and operators of MVP and CEP facilities to submit initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI. Therefore, we are finalizing the electronic reporting provisions as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

The EPA received one comment supporting the proposed amendment to require electronic reporting. The commenter, however, asserted that the *force majeure* language should be removed. The commenter expressed concern that proposed 40 CFR 63.5420(c)(5) provides an exemption from reporting due to *force majeure* events. The commenter noted that the Court rejected similar "affirmative defense" to civil penalties for malfunctions (*NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014)). The commenter also argued that adding such an exemption would be arbitrary and unlawful because it would undermine the reporting requirements by providing a justification to delay reporting, and, thus, undermine compliance, enforcement, and fulfillment of the emissions standards designed to protect public health and the environment at the core of the CAA's and section 7412's purpose (42 U.S.C. 740).

The commenter is incorrect in referring to 40 CFR 63.5420(c)(5) as an "exemption." This provision provides instructions for actions an affected source should take if it is unable to submit an electronic report (required under 40 CFR 63.5420(c)) "due to a *force majeure* event that is about to

occur, occurs, or has occurred, or if there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due" under 40 CFR 63.5420(c). We note that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. As specified in 40 CFR 63.5420(c)(5), "[t]he decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator." There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a category 5 hurricane event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate and, if so, determine a reasonable length. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the CEDRI outage is resolved or after the *force majeure* event occurs.

We also note that the *force majeure* mimics long-standing language in 40 CFR 63.7(a)(4) and 60.8(a)(1) regarding the time granted for conducting a performance test and such language has not undermined compliance or enforcement.

Moreover, we disagree that the reporting extension will undermine enforcement because the Administrator has full discretion to accept or reject the claim of a CEDRI system outage or *force majeure.* As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility's claim is legitimate. *Force majeure* events (*e.g.,* natural disasters impacting a facility) are also usually well-known events.

We also disagree that the ability to request a reporting extension would undermine compliance and fulfillment of the emissions standards. While reporting is an important mechanism for the EPA and air agencies to assess whether owners or operators are in compliance with emissions standards, reporting obligations have nothing to do with whether an owner or operator is required to be in compliance with an emissions standard, especially where the deadline for meeting the standard has already passed and the owner or operator has certified that they are in compliance with the standard.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting a reporting extension request is very limited in that claims can only be made for events outside of the owner's or operator's control that occur in the 5 business days prior to the reporting deadline. The claim must then be approved by the Administrator, and, in approving such a claim, the Administrator agrees that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this reporting extension allow for the owner or operator to be out of compliance with the emissions standards.

The reporting deadline extension differs from the affirmative defense to civil penalties for malfunctions the Court vacated as beyond the EPA's authority under the CAA in *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014). Unlike the affirmative defense addressed in *NRDC,* the reporting provision does not address penalty liability for noncompliance with emission standards, but merely addresses, under a narrow set of circumstances outside the control of the facilities, the deadline for reporting.

A detailed summary of these comments and our responses are located in the memorandum titled *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2018–0415).

4. What is the rationale for our final approach to electronic reporting?

The EPA is finalizing, as proposed, a requirement that owners or operators of MVP and CEP facilities submit electronic copies of notifications, performance evaluation reports, and semiannual compliance reports using CEDRI. We also are finalizing, as proposed, provisions that allow facility owners or operators a process to request extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event). The amendments will increase the ease and efficiency of data submittal for owners and operators of MVP and CEP facilities and will make the data more accessible to regulators and the public.

F. Changes to the Monitoring Requirements for Biofilter Control Devices

1. What did we propose?

The EPA proposed revisions to the operating limits in Table 2 to Subpart UUUU of Part 63 to add biofilter effluent conductivity to the list of biofilter operating limits, revisions to the performance testing requirements in 40 CFR 63.5535(i)(7) to add biofilter effluent conductivity to the list of parameters for which operating limits must be established during the compliance demonstration, and revisions to the continuous compliance with operating limits in Table 6 to Subpart UUUU of Part 63 to add biofilter effluent conductivity to the list of parameters to monitor to demonstrate continuous compliance.

2. What changed since proposal?

The EPA has not made any changes to the proposed amendments to include biofilter effluent conductivity monitoring provisions since publication of the proposal on September 9, 2019. We are finalizing the alternative monitoring provisions as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

No comments were received on the proposed addition of biofilter effluent conductivity monitoring provisions.

4. What is the rationale for our final approach to monitoring of biofilter control devices?

The EPA is finalizing the proposed revisions to allow monitoring of biofilter effluent conductivity as an alternative to effluent pH for biofilter control devices.

As we explained in the proposal, the EPA has conditionally approved an alternative monitoring request from one company to use conductivity in lieu of pH monitoring pursuant to 40 CFR 63.8(f). The company's request stated that conductivity would provide a more accurate operating limit than pH for strong acids and bases. To allow other sources the flexibility to use conductivity for monitoring of biofilter control devices without the need to request approval for each source, we have finalized the changes as described in the proposal.

G. IBR Under 1 CFR Part 51 for the Cellulose Products Manufacturing NESHAP

1. What did we propose?

In accordance with requirements of 1 CFR 51.5, the EPA proposed to IBR the following documents into 40 CFR 63.14:

- ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63;
- ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63; and
- ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for Table 4 to Subpart UUUU of Part 63.

2. What changed since proposal?

The EPA has not made any changes to its proposal to IBR the documents listed above. We are incorporating these documents by reference into 40 CFR 63.14 as proposed (84 FR 47346, September 9, 2019). We have also included an IBR for ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, in this rulemaking. It was determined that the appendices in this method were needed for use with the ASTM D6348–12e1 method.

3. What are the key comments and what are our responses?

No comments were received on the proposed IBR of the standards into 40 CFR 63.14.

4. What is the rationale for our amendments?

In the proposal, we proposed regulatory text that included IBR. In accordance with requirements of 1 CFR 51.5, we have finalized as proposed the IBR of the four documents listed in sections IV.E.1 and IV.E.2 of this preamble.

H. Technical and Editorial Changes for the Cellulose Products Manufacturing NESHAP

1. What did we propose?

The EPA proposed the following technical and editorial changes:

- Add a new paragraph at 40 CFR 63.5505(f) to clarify that CS_2 storage tanks that are part of a submerged unloading and storage operation subject to 40 CFR part 63, subpart UUUU, are not subject to 40 CFR part 60, subpart Kb;
- revise the performance test requirements in 40 CFR 63.5535 to specify the conditions for conducting performance tests;
- revise the performance evaluation requirements in 40 CFR 63.5545(e)(2) to specify the use of Procedure 1 of 40 CFR part 60, appendix F for quality assurance procedures;
- revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to correct an error in the reference to a test method appendix;
- revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to add IBR for ASTM D6420–99 (Reapproved 2010), ASTM D5790–95 (Reapproved 2012), and ASTM D6348–12e1;
- revise the reporting requirements in 40 CFR 63.5580 and the reporting and recordkeeping requirements tables (Tables 8 and 9 to Subpart UUUU of Part 63) to include the requirements to record and report information on failures to meet the applicable standard and the corrective actions taken; and
- revise the General Provisions applicability table (Table 10 to Subpart UUUU of Part 63) to align with those sections of the General Provisions that have been amended or reserved over time.

2. What changed since proposal?

We are finalizing the technical and editorial changes as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

No comments were received on the proposed technical and editorial corrections.

4. What is the rationale for our final approach?

We are finalizing the technical and editorial changes as proposed for the reasons stated in section IV.E.6 of the proposal preamble.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

There are currently eight facilities operating in the United States that conduct MVP and CEP operations that are subject to the Cellulose Products Manufacturing NESHAP. The 40 CFR part 63, subpart UUUU affected source for the MVP source category is each cellulose food casing, rayon, cellulosic sponge, or cellophane operation, as defined in 40 CFR 63.5610. The affected source for the CEP source category is each cellulose ether operation, as defined in 40 CFR 63.5610.

B. What are the air quality impacts?

The EPA estimates that annual HAP emissions from the MVP and CEP facilities that are subject to the NESHAP are approximately 4,300 tpy. We are not establishing new emission limits and are not requiring additional controls; therefore, no quantifiable air quality impacts are expected as a result of the final amendments to the rule. However, the final amendments, including the removal of the SSM exemption and addition of periodic emissions testing, have the potential to reduce excess emissions from sources by ensuring proper operation of control devices.

The final amendments will have no effect on the energy needs of the affected facilities and, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

The eight facilities subject to the final amendments will incur minimal net costs to meet the revised recordkeeping and reporting requirements and will incur periodic emissions testing costs for add-on control devices. The nationwide costs associated with the new periodic testing requirements are estimated to be $490,000 (2018$) over the 5 years following promulgation of the amendments. For further information on the costs, see the memorandum titled *Costs and Environmental Impacts of Regulatory Options for the Cellulose Products Manufacturing Industry,* and the document titled *Supporting Statement for the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU),* which are both available in the

docket for this final rule (Docket ID No. EPA–HQ–OAR–2018–0415).

D. What are the economic impacts?

The final revisions to the Cellulose Products Manufacturing NESHAP have some costs associated with the periodic testing requirements and these costs are not expected to have significant economic impacts.

E. What are the benefits?

The final amendments will result in improved monitoring, compliance, and implementation of the rule by adding provisions for periodic emissions testing, requiring MVP and CEP facilities to meet the same emission standards during SSM events as during normal operations, and requiring electronic submittal of initial notifications, performance test results, and semiannual reports. These improvements will further assist in the protection of public health and the environment. The electronic reporting requirements will improve data availability and ultimately result in less burden on the regulated community.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the Cellulose Products Manufacturing NESHAP, we performed a demographic analysis for the MVP and CEP source categories, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In each analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the MVP and CEP source categories across different demographic groups within the populations living near facilities.[4]

For the MVP source category, we determined that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1. The methodology and the results of the MVP demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities,* available in the docket for this action.

For the CEP source category, the results of the demographic analysis indicate that emissions from the source category expose approximately 104,572 people to a cancer risk at or above 1-in-1 million and approximately zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in three demographic groups (African American, above poverty level, and over 25 without high school diploma) are greater than their respective nationwide percentages. The methodology and the results of the CEP demographic analysis are presented in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production Facilities,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0415).

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health and risk assessments for this action are contained in two reports titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk* and *Technology Review Final Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1974.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the recordkeeping and reporting requirements for 40 CFR part 63, subpart UUUU, which eliminate the SSM reporting and SSM plan requirements, add periodic emissions testing, provide biofilter effluent conductivity as an alternative to monitoring pH, and require electronic submittal of notifications, semiannual reports, and performance test reports.

Respondents/affected entities: Respondents include facilities subject to the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU).

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart UUUU).

Estimated number of respondents: Eight.

Frequency of response: Initial notifications, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: 7,256 labor hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $954,000 per year, including $834,000 per year in labor costs and $120,000 per year in annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

[4] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. There are no small entities in this regulated industry and, as such, this action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the facilities known to be engaged in the manufacture of cellulose products that would be affected by this action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and IV.A of this preamble. Further documentation is provided in the following risk reports titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk and Technology Review Final Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use three voluntary consensus standards (VCS). ASTM D6420–99 (Reapproved 2010), "Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry," is used for the measurement of toluene and total organic HAP. This method employs a direct interface gas chromatograph/mass spectrometer to identify and quantify the 36 volatile organic compounds (VOC) (or sub-set of these compounds) listed on the ASTM website. This ASTM standard has been approved by the EPA as an alternative to EPA Method 18 when the target compounds are all known, and the target compounds are all listed in ASTM D6420 as measurable.

ASTM D5790–95 (Reapproved 2012), "Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry," identifies and measures purgeable VOC. It has been validated for treated drinking water, wastewater, and groundwater. ASTM D5790–95 is acceptable as an alternative to EPA Method 624 and for the analysis of total organic HAP in wastewater samples. For wastewater analyses, this ASTM method should be used with the sampling procedures of EPA Method 25D or an equivalent method in order to be a complete alternative. This ASTM standard is validated for all of the 21 volatile organic HAP (including toluene) targeted by EPA Method 624 and is also validated for an additional 14 HAP not targeted by the EPA method.

ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy," is an acceptable alternative to using EPA Method 320 with caveats requiring inclusion of selected annexes to the standard as mandatory. This test method provides the volume concentration of detected analytes. Converting the volume concentration to a mass emission rate using the compound's molecular weight, and the effluent volumetric flow rate, temperature, and pressure is useful for determining the impact of that compound to the atmosphere. When using ASTM D6348–12e, the following conditions must be met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03, Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). For the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100.

These four ASTM standards are available from ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org/.*

While the EPA identified 14 other VCS as being potentially applicable, the Agency has decided not to use them. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other important technical and policy considerations. For further information, see the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing,* in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0059).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in the technical reports titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities* and *Risk and*

Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production Facilities, which are located in the public docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (h)(72), (83), (85), (89), and (91) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(72) ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to subpart UUUU.

* * * * *

(83) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2003, IBR approved for §§ 63.457(b), 63.1349, Table 4 to subpart DDDD, table 4 to subpart UUUU, table 4 subpart ZZZZ, and table 8 to subpart HHHHHHH.

* * * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for § 63.1571(a) and Table 4 to subpart UUUU.

* * * * *

(89) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.5799 and 63.5850.

* * * * *

(91) ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved October 1, 2010, IBR approved for § 63.670(j), Table 4 to subpart UUUU, and appendix A to this part: Method 325B.

* * * * *

Subpart UUUU—National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing

■ 3. Section 63.5505 is amended by adding paragraph (f) to read as follows:

§ 63.5505 What emission limits, operating limits, and work practice standards must I meet?

* * * * *

(f) Carbon disulfide storage tanks part of a submerged unloading and storage operation subject to this part are not subject to 40 CFR part 60, subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984).

■ 4. Section 63.5515 is amended by revising paragraph (a), paragraph (b) introductory text, adding reserved paragraph (b)(2), and revising paragraph (c).

The revisions read as follows:

§ 63.5515 What are my general requirements for complying with this subpart?

(a) On or before December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction. After December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must be in compliance with the emission limitations in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times on July 2, 2020, or immediately upon startup, whichever is later.

(b) On or before December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After December 29. 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), and after September 9, 2019, for new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

* * * * *

(c) On or before December 29 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must maintain a written startup, shutdown, and malfunction (SSM) plan according the provisions in § 63.6(e)(3). For each such source, a SSM plan is not required after December 29, 2020. No SSM plan is required for any new or reconstruction source for

which construction or reconstruction commenced after September 9, 2019.

* * * * *

■ 5. Section 63.5535 is amended by revising paragraph (b), removing and reserving paragraph (c), and revising paragraphs (g)(1), (h)(1), and (i)(7).

The revisions read as follows:

§ 63.5535 What performance tests and other procedures must I use?

* * * * *

(b) You must conduct each performance test for continuous process vents and combinations of batch and continuous process vents based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the specific conditions in Table 4 to this subpart. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(g) * * *

(1) Viscose process affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(h) * * *

(1) Cellulose ether affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(i) * * *

(7) For biofilters, record the pressure drop across the biofilter beds, inlet gas temperature, and effluent pH or conductivity averaged over the same time period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the pressure, temperature, and pH or conductivity sensors in positions that provide representative measurement of these parameters. Ensure the sample is properly mixed and representative of the fluid to be measured.

* * * * *

■ 6. Section 63.5541 is added to read as follows:

§ 63.5541 When must I conduct subsequent performance tests?

(a) For each affected source utilizing a non-recovery control device to comply with § 63.5515 that commenced construction or reconstruction before September 9, 2019, a periodic performance test must be performed by July 2, 2023, and subsequent tests no later than 60 months thereafter.

(b) For each affected source utilizing a non-recovery control device to comply with § 63.5515 that commences construction or reconstruction after September 9, 2019, a periodic performance test must be performed no later than 60 months after the initial performance test required by § 63.5535, and subsequent tests no later than 60 months thereafter.

■ 7. Section 63.5545 is amended by revising paragraphs (b)(1) and (e)(2) to read as follows:

§ 63.5545 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(b) * * *

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), 63.5515(b), and 63.5580(c)(6);

* * * * *

(e) * * *

(2) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8, Procedure 1 of 40 CFR part 60, appendix F, and according to the applicable performance specification listed in paragraphs (e)(1)(i) through (iv) of this section.

* * * * *

■ 8. Section 63.5555 is amended by revising paragraph (d) to read as follows:

§ 63.5555 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

* * * * *

(d) For each affected source that commenced construction or reconstruction before September 9, 2019, on or before December 29, 2020, deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.5515(b). The Administrator will determine whether deviations that occur on or before December 29, 2020, and during a period you identify as a startup, shutdown, or malfunction are violations, according to the provisions in § 63.5515(b). This section no longer applies after December 30, 2020. For new sources that commence construction or reconstruction after September 9, 2019, this section does not apply.

■ 9. Section 63.5575 is revised to read as follows:

§ 63.5575 What notifications must I submit and when?

You must submit each notification in Table 7 to this subpart that applies to you by the date specified in Table 7 to this subpart. Initial notifications and Notification of Compliance Status Reports shall be electronically submitted in portable document format (PDF) following the procedure specified in § 63.5580(g).

■ 10. Section 63.5580 is amended by:

■ a. Revising paragraphs (b) introductory text and (b)(2) and (4);

■ b. Adding paragraph (b)(6);

■ c. Revising paragraphs (c)(4), (e) introductory text, and (e)(2);

■ d. Adding paragraphs (e)(14) and (g) through (k).

The revisions and additions read as follows:

§ 63.5580 What reports must I submit and when?

* * * * *

(b) Unless the Administrator has approved a different schedule for submitting reports under § 63.10, you must submit each compliance report by the date in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (6) of this section.

* * * * *

(2) The first compliance report must be submitted no later than August 31 or February 28, whichever date follows the end of the first calendar half after the

compliance date that is specified for your affected source in § 63.5495.

* * * * *

(4) Each subsequent compliance report must be submitted no later than August 31 or February 28, whichever date is the first date following the end of the semiannual reporting period.

* * * * *

(6) Prior to December 29, 2020, all compliance reports submitted by mail must be postmarked or delivered no later than the dates specified in paragraphs (b)(1) through (5). Beginning on December 29, 2020, you must submit all compliance reports following the procedure specified in paragraph (g) of this section by the dates specified in paragraphs (b)(1) through (5).

* * * * *

(c) * * *

(4) Before December 30, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, the compliance report must include the information in § 63.10(d)(5)(i). After December 29, 2020, you are no longer required to report the information in § 63.10(d)(5)(i). No SSM plan is required for any new or reconstruction source for which construction or reconstruction commenced after September 9, 2019.

* * * * *

(e) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to demonstrate continuous compliance with the emission limit or operating limit in this subpart (see Tables 5 and 6 to this subpart), you must include the information in paragraphs (c)(1) through (4) and (e)(1) through (14) of this section. This includes periods of SSM.

* * * * *

(2) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(14) An estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

* * * * *

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph, you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Notifications must be submitted as PDFs to CEDRI. You must use the semi-annual compliance report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The semi-annual compliance report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(h) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under this paragraph (h) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (h) of this section.

(i) Within 60 days after the date of completing each CMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (i)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under this paragraph (i) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or

other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (i).

(j) If you are required to electronically submit a report or notification through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (j)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(k) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (k)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 11. Section 63.5590 is amended by adding paragraph (e) to read as follows:

§ 63.5590 In what form and how long must I keep my records?

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 12. Table 2 to Subpart UUUU is revised to read as follows:

Table 2 to Subpart UUUU of Part 63—Operating Limits

As required in § 63.5505(b), you must meet the appropriate operating limits in the following table:

For the following control technique . . .	you must . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer	a. for periods of normal operation, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration;
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup.
3. water scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration;

For the following control technique . . .	you must . . .
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or, reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
4. caustic scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration;
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
5. flare	maintain the presence of a pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the operating values established during the compliance demonstration.
7. carbon absorber	maintain the regeneration frequency, total regeneration adsorber stream mass or volumetric flow during carbon bed regeneration, and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency of each control device no lower than the value established during the compliance demonstration.
10. any of the control techniques specified in this table.	a. if you wish to establish alternative operating parameters, submit the application for approval of the alternative operating parameters no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration;
	b. the application must include: Information justifying the request for alternative operating parameters (such as the infeasibility or impracticality of using the operating parameters in this final rule); a description of the proposed alternative control device operating parameters; the monitoring approach; the frequency of measuring and recording the alternative parameters; how the operating limits are to be calculated; and information documenting that the alternative operating parameters would provide equivalent or better assurance of compliance with the standard;
	c. install, operate, and maintain the alternative parameter monitoring systems in accordance with the application approved by the Administrator;
	d. establish operating limits during the initial compliance demonstration based on the alternative operating parameters included in the approved application; and
	e. maintain the daily average alternative operating parameter values within the values established during the compliance demonstration.
11. alternative control technique.	a. submit for approval no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration a proposed site-specific plan that includes: A description of the alternative control device; test results verifying the performance of the control device; the appropriate operating parameters that will be monitored; and the frequency of measuring and recording to establish continuous compliance with the operating limits;
	b. install, operate, and maintain the parameter monitoring system for the alternative control device in accordance with the plan approved by the Administrator;
	c. establish operating limits during the initial compliance demonstration based on the operating parameters for the alternative control device included in the approved plan; and
	d. maintain the daily average operating parameter values for the alternative control technique within the values established during the compliance demonstration.

■ 13. Table 3 to Subpart UUUU is revised to read as follows:

Table 3 to Subpart UUUU of Part 63—Initial Compliance With Emission Limits and Work Practice Standards

As required in §§ 63.5530(a) and 63.5535(g) and (h), you must demonstrate initial compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
1. the sum of all viscose process vents	a. each existing cellulose food casing operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 25 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 25 percent; (2) you have a record of the range of operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 25 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	b. each new cellulose food casing operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the range of operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	c. each existing rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 35 percent within 3 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems; and	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 35 percent within 3 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 35 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems; and
		ii. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 40 percent within 8 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 40 percent within 8 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 40 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of the total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
	d. each new rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent; based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide missions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	e. each existing or new cellulosic sponge operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine and the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	f. each existing or new cellophane operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents	a. each existing or new cellophane operation	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
3. the sum of all cellulose ether process vents	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or	i. reduce total uncontrolled organic HAP emissions by at least 99 percent; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) average uncontrolled total organic HAP emissions, measured during the performance test or determined using engineering estimates are reduced by at least 99 percent; (2) you have a record of the average operating parameter values over the performance test during which the average uncontrolled total organic HAP emissions were reduced by at least 99 percent; and (3) you comply with the initial compliance requirements for closed-vent systems.
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance	i. reduce total uncontrolled organic HAP emissions by at least 99 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) average uncontrolled total organic HAP emissions, determined during the month-long compliance demonstration or using engineering estimates are reduced by at least 99 percent; (2) you have a record of the average operation parameter values over the month-long compliance demonstration during which the average uncontrolled total organic HAP emissions were reduced by at least 99 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (4) if you use extended cookout to comply, you measure the HAP charged to the reactor, record the grade of product produced, and then calculate reactor emissions prior to extended cookout by taking a percentage of the total HAP charged.
4. closed-loop systems	each existing or new cellulose ether operation	operate and maintain the closed-loop system for cellulose ether operations.	you have a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation	a. each existing or new viscose process affected source	i. reduce uncontrolled carbon disulfide emissions by at least 83 percent from unloading and storage operations based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you have a record documenting the 83-percent reduction in uncontrolled carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems;
		ii. reduce uncontrolled carbon disulfide by at least 0.14 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (2) the 0.14-percent reduction must be in addition to the reduction already required for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (3) you comply with the initial compliance requirements for closed-vent systems;
		iii. install a nitrogen unloading and storage system; or	you have a record certifying that a nitrogen unloading and storage system is in use; or

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
		iv. install a nitrogen unloading system; reduce uncontrolled carbon disulfide by at least 0.045 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) you have a record certifying that a nitrogen unloading system is in use; (2) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (3) the 0.045-percent reduction must be in addition to the reduction already required for viscose process vents at cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (4) you comply with the initial compliance requirements for closed-vent systems.
6. each toluene storage vessel	a. each existing or new cellophane operation	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation	i. comply with the applicable equipment leak standards of §§ 63.162 through 63.179; or	you comply with the applicable requirements described in the Notification of Compliance Status Report provisions in § 63.182(a)(2) and (c)(1) through (3), except that references to the term "process unit" mean "cellulose ether process unit" for the purposes of this subpart; or
		ii. comply with the applicable equipment leak standards of §§ 63.1021 through 63.1027.	you comply with the applicable requirements described in the Initial Compliance Status Report provisions of § 63.1039(a), except that references to the term "process unit" mean "cellulose ether process unit" for the purposes of this subpart.
8. all sources of wastewater emissions	each existing or new cellulose ether operation	comply with the applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	you comply with the applicability and Group 1/Group 2 determination provisions of § 63.144 and the initial compliance provisions of §§ 63.105 and 63.145.
9. liquid streams in open systems	each existing or new cellulose ether operation	comply with the applicable provisions of § 63.149, except that references to "chemical manufacturing process unit" mean "cellulose ether process unit" for the purposes of this subpart.	you install emission suppression equipment and conduct an initial inspection according to the provisions of §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device	a. each existing or new affected source	i. conduct annual inspections, repair leaks, and maintain records as specified in § 63.148.	(1) you conduct an initial inspection of the closed-vent system and maintain records according to § 63.148; (2) you prepare a written plan for inspecting unsafe-to-inspect and difficult-to-inspect equipment according to § 63.148(g)(2) and (h)(2); and (3) you repair any leaks and maintain records according to § 63.148.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3))	a. each existing or new affected source	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	you have a record documenting that you installed a flow indicator as specified in Table 1 to this subpart; or
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or closure mechanism at least once per month as specified in § 63.148(f)(2)	you have record documenting that you have secured the bypass line valve as specified in Table 1 to this subpart.
12. heat exchanger system that cools process equipment or materials in the process unit	a. each existing or new affected source	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.	(1) you determine that the heat exchanger system is exempt from monitoring requirements because it meets one of the conditions in § 63.104(a)(1) through (6), and you document this finding in your Notification of Compliance Status Report; or (2) if your heat exchanger system is not exempt, you identify in your Notification of Compliance Status Report the HAP or other representative substance that you will monitor, or you prepare and maintain a site-specific plan containing the information required by § 63.104(c)(1)(i) through (iv) that documents the procedures you will use to detect leaks by monitoring surrogate indicators of the leak.

■ 14. Table 4 to Subpart UUUU is revised to read as follows:

Table 4 to Subpart UUUU of Part 63—Requirements for Performance Tests

As required in §§ 63.5530(b) and 63.5535(a), (b), (g)(1), and (h)(1), you must conduct performance tests, other initial compliance demonstrations, and CEMS performance evaluations and establish operating limits according to the requirements in the following table:

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
1. the sum of all process vents.	a. each existing or new affected source.	i. select sampling port's location and the number of traverse points;	EPA Method 1 or 1A in appendix A–1 to part 60 of this chapter;	sampling sites must be located at the inlet and outlet to each control device;
		ii. determine velocity and volumetric flow rate;	EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to part 60 of this chapter;	you may use EPA Method 2A, 2C, 2D, 2F, or 2G as an alternative to using EPA Method 2, as appropriate;
		iii. conduct gas analysis; and,	(1) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter; or,	you may use EPA Method 3A or 3B as an alternative to using EPA Method 3; or,
			(2) ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14); and,	you may use ASME PTC 19.10–1981—Part 10 as an alternative to using the manual procedures (but not instrumental procedures) in EPA Method 3B.
		iv. measure moisture content of the stack gas.	EPA Method 4 in appendix A–3 to part 60 of this chapter.	

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
2. the sum of all viscose process vents.	a. each existing or new viscose process source.	i. measure total sulfide emissions.	(1) EPA Method 15 in appendix A–5 to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you must conduct testing of emissions from continuous viscose process vents and combinations of batch and continuous viscose process vents at normal operating conditions, as specified in § 63.5535; (c) you must conduct testing of emissions from batch viscose process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(2) carbon disulfide and/or hydrogen sulfide CEMS, as applicable;	(a) you must measure emissions at the inlet and outlet of each control device using CEMS; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of appendix B to part 60 of this chapter; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.
3. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. measure toluene emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter, or Method 320 in appendix A to part 63; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) ASTM D6420–99 (Reapproved 2010) (incorporated by reference—see § 63.14); or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1 (incorporated by reference—see § 63.14).	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. ASTM D6348–03 is incorporated by reference, see § 63.14. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
4. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. measure total organic HAP emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to this part, or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
			(2) ASTM D6420–99 (Reapproved 2010); or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(4) EPA Method 25 in appendix A–7 to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25 to determine the control efficiency of combustion devices for organic compounds; you may not use EPA Method 25 to determine the control efficiency of noncombustion control devices; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(5) EPA Method 25A in appendix A–7 to part 60 of this chapter.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25A if: An exhaust gas volatile organic matter concentration of 50 ppmv or less is required in order to comply with the emission limit; the volatile organic matter concentration at the inlet to the control device and the required level of control are such as to result in exhaust volatile organic matter concentrations of 50 ppmv or less; or because of the high control efficiency of the control device, the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of the inlet concentration; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
5. each toluene storage vessel.	a. each existing or new cellophane operation.	i. measure toluene emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to this part; or	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) ASTM D6420–99; or	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
6. the sum of all process vents controlled using a flare.	each existing or new affected source.	measure visible emissions.	EPA Method 22 in appendix A–7 to part 60 of this chapter.	you must conduct the flare visible emissions test according to § 63.11(b).
7. equipment leaks	a. each existing or new cellulose ether operation.	i. measure leak rate.	(1) applicable equipment leak test methods in § 63.180; or (2) applicable equipment leak test methods in § 63.1023.	you must follow all requirements for the applicable equipment leak test methods in § 63.180; or you must follow all requirements for the applicable equipment leak test methods in § 63.1023.
8. all sources of wastewater emissions.	a. each existing or new cellulose ether operation.	i. measure wastewater HAP emissions.	(1) applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or	(a) You must follow all requirements for the applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) applicable wastewater test methods and procedures in §§ 63.144 and 63.145, using ASTM D5790–95 (Reapproved 2012) (incorporated by reference—see § 63.14) as an alternative to EPA Method 624 in appendix A to part 163 of this chapter.	(a) you must follow all requirements for the applicable waste water test methods and procedures in §§ 63.144 and 63.145, except that you may use ASTM D5790–95 (Reapproved 2012) as an alternative to EPA Method 624, under the condition that this ASTM method be used with the sampling procedures of EPA Method 25D or an equivalent method.
9. any emission point	a. each existing or new affected source using a CEMS to demonstrate compliance.	i. conduct a CEMS performance evaluation.	(1) applicable requirements in § 63.8 and applicable performance specification (PS–7, PS–8, PS–9, or PS–15) in appendix B to part 60 of this chapter.	(a) you must conduct the CEMS performance evaluation during the period of the initial compliance demonstration according to the applicable requirements in § 63.8 and the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.

■ 15. Table 5 to Subpart UUUU is revised to read as follows:

Table 5 to Subpart UUUU of Part 63—Continuous Compliance With Emission Limits and Work Practice Standards

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
1. the sum of all viscose process vents.	a. each existing or new viscose process affected source.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least the specified percentage based on a 6-month rolling average; ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems (except for retractable hoods over sulfuric acid baths at a cellophane operation)	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or.	i. reduce total uncontrolled organic HAP emissions by at least 99 percent; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and, iii. comply with the work practice standard for closed-vent systems; or	(1) complying with the continuous compliance requirements for closed-vent systems; or (2) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed.
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance.	i. reduce total uncontrolled organic HAP emissions by at least 99 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to control device; and iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (2) documenting the percent reduction of total organic HAP emissions using the pertinent data from the material balance; (3) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed; (4) complying with the continuous compliance requirements for closed-vent systems.
4. closed-loop systems	each existing or new cellulose ether operation.	operate and maintain a closed-loop system.	keeping a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83 percent based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) keeping a record documenting the 83 percent reduction in carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems;
	.....	ii. reduce total uncontrolled sulfide emissions by at least 0.14 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems;
	.....	iii. install a nitrogen unloading and storage system; or	Keeping a record certifying that a nitrogen unloading and storage system is in use; or
	.....	iv. install a nitrogen unloading system; reduce total uncontrolled sulfide emissions by at least 0.045 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) keeping a record certifying that a nitrogen unloading system is in use; (2) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (3) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (4) complying with the continuous compliance requirements for closed-vent systems.
6. each toluene storage vessel.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. applicable equipment leak standards of §§ 63.162 through 63.179; or ii. applicable equipment leak standards of §§ 63.1021 through 63.1037.	complying with the applicable equipment leak continuous compliance provisions of §§ 63.162 through 63.179; or complying with the applicable equipment leak continuous compliance provisions of §§ 63.1021 through 63.1037.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
8. all sources of wastewater emissions.	each existing or new cellulose either operation.	applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	complying with the applicable wastewater continuous compliance provisions of §§ 63.105, 63.143, and 63.148.
9. liquid streams in open systems.	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to "chemical manufacturing process unit" mean "cellulose ether process unit" for the purposes of this subpart.	conducting inspections, repairing failures, documenting delay of repair, and maintaining records of failures and corrective actions according to §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device.	each existing or new affected source.	conduct annual inspections, repair leaks, maintain records as specified in § 63.148.	conducting the inspections, repairing leaks, and maintaining records according to § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3).	a. each existing or new affected source.	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	(1) taking readings from the flow indicator at least once every 15 minutes; (2) maintaining hourly records of flow indicator operation and detection of any diversion during the hour, and (3) recording all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or mechanism at least once per month as specified in § 63.148(f)(2).	(1) maintaining a record of the monthly visual inspection of the seal or closure mechanism for the bypass line; and (2) recording all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out.
12. heat exchanger system that cools process equipment or materials in the process unit.	a. each existing or new affected source.	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.	(1) monitoring for HAP compounds, other substances, or surrogate indicators at the frequency specified in § 63.104(b) or (c); (2) repairing leaks within the time period specified in § 63.104(d)(1); (3) confirming that the repair is successful as specified in § 63.104(d)(2); (4) following the procedures in § 63.104(e) if you implement delay of repair; and (5) recording the results of inspections and repair according to § 63.104(f)(1).

■ 16. Table 6 to Subpart UUUU is revised to read as follows:

Table 6 to Subpart UUUU of Part 63—Continuous Compliance With Operating Limits

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate operating limits according to the requirements in the following table:

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.	collecting the condenser outlet gas or condensed liquid temperature data according to § 63.5545; reducing the condenser outlet gas temperature data to daily averages; and maintaining the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer.	a. for normal operations, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.	collecting the thermal oxidizer firebox temperature data according to § 63.5545; reducing the thermal oxidizer firebox temperature data to daily averages; and maintaining the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.
	b. for periods of startup, maintain documentation demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup..	collecting the appropriate, site-specific data needed to demonstrate that the oxidizer was properly operating prior to emission unit start up; and excluding firebox temperature from the daily averages during emission unit startup.

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
3. water scrubber.	a. for periods of normal operation, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop and scrubber liquid flow rate data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods..	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
4. caustic scrubber.	a. for periods of normal operation, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods..	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
5. flare	maintain the presence of a pilot flame	collecting the pilot flame data according to § 63.5545; and maintaining the presence of the pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the values established during the compliance demonstration.	collecting the biofilter inlet gas temperature, biofilter effluent pH or conductivity, and biofilter pressure drop data according to § 63.5545; reducing the biofilter parameter data to daily averages; and maintaining the daily biofilter parameter values within the values established during the compliance demonstration.
7. carbon absorber.	maintain the regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.	collecting the data on regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle according to § 63.5545; and maintaining carbon absorber parameter values for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber ..	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.	collecting the absorption liquid flow, absorption liquid temperature, and steam flow data according to § 63.5545; reducing the oil absorber parameter data to daily averages; and maintaining the daily oil absorber parameter values within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.	collecting CEMS emissions data at the inlet and outlet of each control device according to § 63.5545; determining the control efficiency values for each control device using the inlet and outlet CEMS emissions data; reducing the control efficiency values for each control device to daily averages; and maintaining the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.

■ 17. Table 7 to Subpart UUUU is revised to read as follows:

Table 7 to Subpart UUUU of Part 63—Notifications

As required in §§ 63.5490(c)(4), 63.5530(c), 63.5575, and 63.5595(b), you must submit the appropriate notifications specified in the following table:

If you . . .	then you must . . .
1. are required to conduct a performance test	submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as specified in §§ 63.7(b)(1) and 63.9(e).

If you . . .	then you must . . .
2. are required to conduct a CMS performance evaluation	submit a notification of intent to conduct a CMS performance evaluation at least 60 calendar days before the CMS performance evaluation is scheduled to begin, as specified in §§ 63.8(e)(2) and 63.9(g).
3. wish to use an alternative monitoring method	submit a request to use alternative monitoring method no later than the notification of the initial performance test or CMS performance evaluation or 60 days prior to any other initial compliance demonstration, as specified in § 63.8(f)(4).
4. start up your affected source before June 11, 2002	submit an initial notification no later than 120 days after June 11, 2002, as specified in § 63.9(b)(2).
5. start up your new or reconstructed source on or after June 11, 2002	submit an initial notification no later than 120 days after you become subject to this subpart, as specified in § 63.9(b)(3).
6. cannot comply with the relevant standard by the applicable compliance date.	submit a request for extension of compliance no later than 120 days before the compliance date, as specified in §§ 63.9(c) and 63.6(i)(4).
7. are subject to special requirements as specified in § 63.6(b)(3) and (4).	notify the Administrator of your compliance obligations no later than the initial notification dates established in § 63.9(b) for new sources not subject to the special provisions, as specified in § 63.9(d).
8. are required to conduct visible emission observations to determine the compliance of flares as specified in § 63.11(b)(4).	notify the Administrator of the anticipated date for conducting the observations specified in § 63.6(h)(5), as specified in §§ 63.6(h)(4) and 63.9(f).
9. are required to conduct a performance test or other initial compliance demonstration as specified in Table 3 to this subpart.	a. submit a Notification of Compliance Status Report, as specified in § 63.9(h); b. submit the Notification of Compliance Status Report, including the performance test, CEMS performance evaluation, and any other initial compliance demonstration results within 240 calendar days following the compliance date specified in § 63.5495; and c. for sources which construction or reconstruction commenced on or before September 9, 2019, beginning on December 29, 2020, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.5580(g), (j), and (k). For sources which construction or reconstruction commenced after September 9, 2019, on July 2, 2020, or immediately upon startup, whichever is later, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.5580(g), (j), and (k).
10. comply with the equipment leak requirements of subpart H of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.182(a)(1) and (2), (b), and (c)(1) through (3) for equipment leaks, with the Notification of Compliance Status Reports required in subpart H included in the Notification of Compliance Status Report required in this subpart.
11. comply with the equipment leak requirements of subpart UU of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.1039(a) for equipment leaks, with the Notification Compliance Status Reports required in subpart UU of this part included in the Notification of Compliance Status Report required in this subpart.
12. comply with the wastewater requirements of subparts F and G of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in §§ 63.146(a) and (b), 63.151, and 63.152(a)(1) through (3) and (b)(1) through (5) for wastewater, with the Notification of Compliance Status Reports required in subpart G of this part included in the Notification of Compliance Status Report required in this subpart.

■ 18. Table 8 to Subpart UUUU is revised to read as follows:

Table 8 to Subpart UUUU of Part 63—Reporting Requirements

As required in § 63.5580, you must submit the appropriate reports specified in the following table:

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
1. if there are no deviations from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c); 2. if there were no periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(c)(6); 3. if there is a deviation from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c) and (d); 4. if there were periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(e);	semiannually as specified in § 63.5580(b); beginning on December 29, 2020, submit all subsequent reports following the procedure specified in § 63.5580(g).

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
5. for sources which commenced construction or reconstruction on or before September 9, 2019, if prior to December 29, 2020, you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(i); 6. for sources which commenced construction or reconstruction on or before September 9, 2019, if prior to December 29, 2020, you had a startup, shutdown, or malfunction during the reporting period and you took actions that are not consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(ii); 7. the report must contain any change in information already provided, as specified in § 63.9(j); 8. for cellulose ether affected sources complying with the equipment leak requirements of subpart H of this part, the report must contain the information specified in § 63.182(a)(3) and (6) and (d)(2) through (4); 9. for cellulose ether affected sources complying with the equipment leak requirements of subpart UU of this part, the report must contain the information specified in § 63.1039(b); 10. for cellulose ether affected sources complying with the wastewater requirements of subparts F and G of this part, the report must contain the information specified in §§ 63.146(c) through (e) and 63.152(a)(4) and (5) and (c) through (e); 11. for affected sources complying with the closed-vent system provisions in § 63.148, the report must contain the information specified in § 63.148(j)(1); 12. for affected sources complying with the bypass line provisions in § 63.148(f), the report must contain the information specified in § 63.148(j)(2) and (3); 13. for affected sources invoking the delay of repair provisions in § 63.104(e) for heat exchanger systems, the next compliance report must contain the information in § 63.104(f)(2)(i) through (iv); if the leak remains unrepaired, the information must also be submitted in each subsequent compliance report until the repair of the leak is reported; and 14. for storage vessels subject to the emission limits and work practice standards in Table 1 to Subpart UUUU, the report must contain the periods of planned routine maintenance during which the control device does not comply with the emission limits or work practice standards in Table 1 to this subpart.	

■ 19. Table 9 to Subpart UUUU is revised to read as follows:

Table 9 to Subpart UUUU of Part 63—Recordkeeping Requirements

As required in § 63.5585, you must keep the appropriate records specified in the following table:

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
1. an existing or new affected source.	a copy of each notification and report that you submitted to comply with this subpart.	all documentation supporting any Initial Notification or Notification of Compliance Status Report that you submitted, according to the requirements in § 63.10(b)(2)(xiv), and any compliance report required under this subpart.
2. an existing or new affected source that commenced construction or reconstruction on or before September 9, 2019.	a. the records in § 63.6(e)(3)(iii) through (iv) related to startup, shutdown, and malfunction prior to December 30, 2020.	i. SSM plan; ii. when actions taken during a startup, shutdown, or malfunction are consistent with the procedures specified in the SSM plan, records demonstrating that the procedures specified in the plan were followed; iii. records of the occurrence and duration of each startup, shutdown, or malfunction; and iv. when actions taken during a startup, shutdown, or malfunction are not consistent with the procedures specified in the SSM plan, records of the actions taken for that event.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
	b. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions after December 29, 2020.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to the alternative operating parameters applicable to startup and shutdown; ii. in the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of each failure; iii. for each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
3. a new or reconstructed affected source that commenced construction or reconstruction after September 9, 2019.	a. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to alternative operating parameters applicable to startup and shutdown; ii. in the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of each failure; iii. for each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
4. an existing or new affected source.	a. a site-specific monitoring plan ...	i. information regarding the installation of the CMS sampling source probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device); ii. performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; iii. performance evaluation procedures and acceptance criteria (*e.g.,* calibrations); iv. ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), 63.5515(b), and 63.5580(c)(6); v. ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and vi. ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c)(1)–(6), (c)(9)–(14), (e)(1), and (e)(2)(i) and 63.5585.
5. an existing or new affected source.	records of performance tests and CEMS performance evaluations, as required in § 63.10(b)(2)(viii) and any other initial compliance demonstrations.	all results of performance tests, CEMS performance evaluations, and any other initial compliance demonstrations, including analysis of samples, determination of emissions, and raw data.
6. an existing or new affected source.	a. records for each CEMS	i. records described in § 63.10(b)(2)(vi) through (xi); ii. previous (superseded) versions of the performance evaluation plan, with the program of corrective action included in the plan required under § 63.8(d)(2); iii. request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); iv. records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period; and v. records required in Table 6 to Subpart UUUU to show continuous compliance with the operating limit.
7. an existing or new affected source.	a. records for each CPMS	i. records required in Table 6 to Subpart UUUU to show continuous compliance with each operating limit that applies to you; and ii. results of each CPMS calibration, validation check, and inspection required by § 63.5545(b)(4).
8. an existing or new cellulose ether affected ether source.	records of closed-loop systems	records certifying that a closed-loop system is in use for cellulose ether operations.
9. an existing or new viscose process affected source.	records of nitrogen unloading and storage systems or nitrogen unloading systems.	records certifying that a nitrogen unloading and storage systems or nitrogen unloading system is in use.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
10. an existing or new viscose process affected source.	records of material balances	all pertinent data from the material balances used to estimate the 6-month rolling average percent reduction in HAP emissions.
11. an existing or new viscose process affected source.	records of calculations	documenting the percent reduction in HAP emissions using pertinent data from the material balances.
12. an existing or new cellulose ether affected source.	a. extended cookout records	i. the amount of HAP charged to the reactor; ii. the grade of product produced; iii. the calculated amount of HAP remaining before extended cookout; and iv. information showing that extended cookout was employed.
13. an existing or new cellulose ether affected source.	a. equipment leak records	i. the records specified in § 63.181 for equipment leaks; or ii. the records specified in 63.1038 for equipment leaks.
14. an existing or new cellulose ether affected source.	wastewater records	the records specified in §§ 63.105, 63.147, and 63.152(f) and (g) for wastewater.
15. an existing or new affected source.	closed-vent system records	the records specified in § 63.148(i).
16. an existing or new affected source.	a. bypass line records	i. hourly records of flow indicator operation and detection of any diversion during the hour and records of all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or ii. the records of the monthly visual inspection of the seal or closure mechanism and of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out and records of any car-seal that has broken.
17. an existing or new affected source.	heat exchanger system records	records of the results of inspections and repair according to source § 63.104(f)(1).
18. an existing or new affected source.	control device maintenance records.	records of planned routine maintenance for control devices used to comply with the percent reduction emission limit for storage vessels in Table 1 to Subpart UUUU.
19. an existing or new affected source.	safety device records	a record of each time a safety device is opened to avoid unsafe conditions according to § 63.5505(d).

■ 20. Table 10 to Subpart UUUU is revised to read as follows:

Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU

As required in §§ 63.5515(h) and 63.5600, you must comply with the appropriate General Provisions requirements specified in the following table:

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations.	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; compliance date; circumvention, severability.	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Preconstruction review requirements of section 112(i)(1).	Yes.
§ 63.6(a)	Applicability	General provisions apply unless compliance extension; general provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1) through (4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source and standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.6(c)(1) and (2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3) and (4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (*e.g.,* 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	You must operate and maintain affected source in a manner consistent with safety and good air pollution control practices for minimizing emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	You must correct malfunctions as soon as practicable after their occurrence.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter.
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Operation and maintenance requirements are enforceable independent of emissions limitations or other requirements in relevant standards.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	SSM Plan	Requirement for SSM and SSM plan; content of SSM plan.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.6(f)(1)	SSM Exemption	You must comply with emission standards at all times except during SSM.	No, see 40 CFR 63.5515(a).
§ 63.6(f)(2) and (3)	Methods for Determining Compliance/ Finding of Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1) through (3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	SSM Exemption	You must comply with opacity and visible emission standards at all times except during SSM.	No, see CFR 63.5515(a).
§ 63.6(h)(2) through (9)	Opacity and Visible Emission (VE) Standards.	Requirements for opacity and visible emission limits.	Yes, but only for flares for which EPA Method 22 observations are required under § 63.11(b).
§ 63.6(i)(1) through (16)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with subpart.	Yes.
§ 63.7(a)(1) and (2)	Performance Test Dates.	Dates for conducting initial performance test; testing and other compliance demonstrations; must conduct 180 days after first subject to subpart.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling.	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled test.	Yes.
§ 63.7(c)	Quality Assurance and Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Performance Testing	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	No, see § 63.5535 and Table 4.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method.	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status Report; keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Unless your subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2) and (3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1) and (c)(1)(i).	General Duty to Minimize Emissions and CMS Operation.	Maintain monitoring system in a manner consistent with good air pollution control practices.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(b).
§ 63.8(c)(1)(ii)	Parts for Routine Repairs.	Keep parts for routine repairs readily available.	Yes.
§ 63.8(c)(1)(iii)	Requirements to develop SSM Plan for CMS.	Develop a written SSM plan for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.8(c)(2) and (3)	Monitoring System Installation.	Must install to get representative emission of parameter measurements; must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts.	No. Replaced with language in § 63.5560.
§ 63.8(c)(4)(i) and (ii)	CMS Requirements	Continuous opacity monitoring systems (COMS) must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, except that § 63.8(c)(4)(i) does not apply because subpart UUUU does not require COMS.
§ 63.8(c)(5)	COMS Minimum Procedures.	COMS minimum procedures	No. Subpart UUUU does not require COMS.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements; out-of-control periods.	No. Replaced with language in § 63.5545.
§ 63.8(c)(7) and (8)	CMS Requirements	Out-of-control periods, including reporting	No. Replaced with language in § 63.5580(c)(6).

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions; program of correction action to be included in plan required under § 63.8(d)(2).	No, except for requirements in § 63.8(d)(2).
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, except that § 63.8(e)(5)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes, except that no site-specific test plan is required. The request to use an alternative monitoring method must be submitted with the notification of performance test or CEMS performance evaluation or 60 days prior to any initial compliance demonstration.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)(1) through (4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1-hour averages computed over at least four equally spaced data points; data that cannot be used in average.	No. Replaced with language in § 63.5545(e).
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No. Replaced with language in § 63.5560(b).
§ 63.9(a)	Notification Requirements.	Applicability and State delegation	Yes.
§ 63.9(b)(1) through (5)	Initial Notifications	Submit notification subject 120 days after effective date; notification of intent to construct or reconstruct; notification of commencement of construction or reconstruction; notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE or Opacity Test.	Notify Administrator 30 days prior	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	Yes, except that § 63.9(g)(2) does not apply because subpart UUUU does not require COMS.
§ 63.9(h)(1) through (6)	Notification of Compliance Status Report.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity or VE, which are due 30 days after; when to submit to federal vs. state authority.	Yes, except that Table 7 to this subpart specifies the submittal date for the notification. The contents of the notification will also include the results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes, except that the notification must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart.
§ 63.10(a)	Recordkeeping and Reporting.	Applies to all, unless compliance extension; when to submit to federal vs. state authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Recordkeeping and Reporting.	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Records of occurrence and duration of each startup or shutdown that causes source to exceed emission limitation.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019.For all other affected sources, Yes before December 29, 2020, and No thereafter.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Records of occurrence and duration of each malfunction of operation or air pollution control and monitoring equipment.	No, see Table 9 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Records of maintenance performed on air pollution control and monitoring equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Actions Taken to Minimize Emissions During SSM.	Records of actions taken during SSM to minimize emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter.
§ 63.10(b)(2)(vi), (x), and (xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks, adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii) through (ix).	Records	Measurements to demonstrate compliance with emission limits; performance test, performance evaluation, and opacity/VE observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes, including results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status Report.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1) through (6), (9) through (14).	Records	Additional records for CMS	Yes.
§ 63.10(c)(7) and (8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No. Replaced with language in Table 9 to this subpart.
§ 63.10(c)(15)	Use of SSM Plan	Use SSM plan to satisfy recordkeeping requirements for identification of malfunction, correction action taken, and nature of repairs to CMS.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to federal or state authority	Yes, except that Table 7 to this subpart specifies the submittal date for the Notification of Compliance Status Report.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)(i)	Periodic SSM Reports	Contents and submission of periodic SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See § 63.5580(c)(4) and Table 8 for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports.	Contents and submission of immediate SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 29, 2020, except that the immediate SSM report must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart, and No thereafter.
§ 63.10(e)(1) and (2)	Additional CMS Reports.	Must report results for each CEMS on a unit; written copy of performance evaluation; three copies of COMS performance evaluation.	Yes, except that § 63.10(e)(2)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.10(e)(3)(i) through (iii).	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No. Replaced with language in § 63.5580.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.10(e)(3)(iv)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations); provision to request semi-annual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emission (now defined as deviations), report contents is a statement that there have been no deviations.	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(v)	Excess Emissions Reports.	Must submit report containing all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(vi) through (viii).	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data.	No. Subpart UUUU does not require COMS.
§ 63.10(f)	Waiver for Recordkeeping or Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Control and Work Practice Requirements.	Requirements for flares and alternative work practice for equipment leaks.	Yes.
§ 63.12	State Authority and Delegations.	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information and Confidentiality.	Public and confidential information	Yes.
§ 63.16	Performance Track Provisions.	Requirements for Performance Track member facilities.	Yes.

[FR Doc. 2020–05901 Filed 7–1–20; 8:45 am]
BILLING CODE 6560–50–P

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Article 13 (State Implementation Plan Rules For Specific Locations)				
*	*	*	*	*
R18–2–B1302	Limits on SO_2 from the Hayden Smelter.	July 1, 2018.	[Insert ***Federal Register*** Citation], November 5, 2020.	Submitted on April 6, 2017. EPA issued a limited approval and limited disapproval of Rule R18–2–B1302.
*	*	*	*	*

* * * * *

[FR Doc. 2020–23031 Filed 11–4–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2014–0741; FRL–10015–72–OAR]

RIN 2060–AU53

National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills; Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-alone Semichemical Pulp Mills, and the New Source Performance Standards (NSPS) for Kraft Pulp Mills constructed, reconstructed, or modified after May 23, 2013. The final rule clarifies how to set operating limits for smelt dissolving tank (SDT) scrubbers used at these mills and corrects cross-reference errors in both rules.

DATES: This final rule is effective on November 5, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2014–0741. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Kelley Spence, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3158; fax number: (919) 541–0516; and email address: *spence.kelley@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ADI Applicability Determination Index
CAA Clean Air Act
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA U.S. Environnemental Protection Agency
ESP electrostatic precipitator
HAP hazardous air pollutant(s)
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PFLA percent full load amperage
PM particulate matter
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RPM revolutions per minute
SDT smelt dissolving tank
UMRA Unfunded Mandates Reform Act

Background information. On October 31, 2019, the EPA proposed revisions to the NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR part 63, subpart MM) and the NSPS for Kraft Pulp Mills Constructed, Reconstructed, or Modified After May 23, 2013 (40 CFR part 60, subpart BBa) clarifying how to set operating limits for SDT scrubbers used at these mills and correcting cross-reference errors in both rules. The rules have similar requirements for setting operating limits for SDT scrubbers, therefore, similar revisions were proposed for both rules. See 84 FR 58356. In this action, the EPA is finalizing the proposed revisions with minor edits. The preamble includes a summary of the comments the EPA received and our responses resulting in improvements to the proposed rule. A summary of all public comments on the proposal and the EPA's specific responses to those comments is provided in the memorandum, "*Response to Comments to Proposed Rule Amending 40 CFR part 63 Subpart MM and 40 CFR part 60 Subpart BBa,*" included in the docket for this action. Redline versions of the regulatory language for 40 CFR part 63, subpart MM, and 40 CFR part 60, subpart BBa showing the final amendments resulting from this action and are also available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Final Amendments

A. What are the final amendments to the NESHAP?
B. What are the final amendments to the NSPS?
III. Summary of Cost, Environmental, and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP, NSPS, and associated regulated industrial source categories that are the subject of this final rule. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this final action is likely to affect. The final amendments, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities will not be affected by this action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992), the Pulp and Paper Production source category is any facility engaged in the production of pulp and/or paper. This category includes, but is not limited to, integrated mills (where pulp alone or pulp and paper or paperboard are manufactured on-site), non-integrated mills (where paper or paperboard are manufactured, but no pulp is manufactured on-site), and secondary fiber mills (where waste paper is used as the primary raw material). Examples of pulping methods include kraft, soda, sulfite, semi-chemical, and mechanical. The pulp and paper production process units include operations such as pulping, bleaching, and chemical recovery. A kraft pulp mill is defined as a facility engaged in kraft pulping and includes digester systems, brown stock washer systems, multiple-effect evaporator systems, condensate stripper systems, recovery furnaces, SDTs, and lime kilns.

TABLE 1—REGULATIONS AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	Name of action	NAICS [1] code
Pulp and Paper Production.	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR part 63, subpart MM).	32211, 32212, 32213
Kraft Pulp Mills	Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013 (40 CFR part 60, subpart BBa).	322110

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of the action at *https://www.epa.gov/stationary-sources-air-pollution/kraft-soda-sulfite-and-stand-alone-semichemical-pulp-mills-mact-ii* and *https://www.epa.gov/stationary-sources-air-pollution/kraft-pulp-mills-new-source-performance-standards-nsps-40-cfr-60.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by January 4, 2021. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC South Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Final Amendments

With this action, the EPA is finalizing amendments to the NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (referred to hereafter as "the NESHAP") and the NSPS for Kraft Pulp Mills constructed, reconstructed, or modified after May 23, 2013 (referred to hereafter as "the NSPS"). The amendments (referred to hereafter as the "2019 proposed amendments") were proposed on October 31, 2019 (84 FR 58356) to clarify how to set operating limits for SDT scrubbers used at these mills and correct cross-reference errors in both

rules. As explained in this section, clarification was needed to address parameter monitoring issues that arose during implementation of the 2017 amendments to the NESHAP (referred to hereafter as the "2017 NESHAP amendments") as a result of the Agency's residual risk and technology review. See 82 FR 47328, October 11, 2017.

A. What are the final amendments to the NESHAP?

1. Alternative To Monitoring Pressure Drop for Certain SDT Scrubbers

The 2017 NESHAP amendments added fan amperage [1] to 40 CFR 63.864(e)(10)(iii) as an alternative to monitoring pressure drop for SDT dynamic scrubbers that operate at ambient pressure and low-energy entrainment scrubbers where the fan speed does not vary. Fan amperage was added as an alternative monitoring parameter based on the EPA's review of alternative monitoring requests for these types of SDT scrubbers available in the EPA's Applicability Determination Index (ADI) (81 FR 97074, December 30, 2016). In these previously approved alternative monitoring requests, the EPA acknowledged that pressure drop is not the best indicator of particulate matter (PM)/hazardous air pollutant (HAP) control device performance when the SDT scrubber is a low-energy entrainment scrubber or a dynamic scrubber that operates near atmospheric pressure. Low-energy entrainment scrubbers use the rotation of the fan blade to shatter the scrubbing liquid into fine droplets, while at the same time accelerating the particles into the airstream. The PM removal efficiency of these scrubbers is a function of the number of liquid droplets produced (to create a large contacting surface area) and the velocity of the PM imparted by the fan blade, which in turn, are functions of the amount of scrubbing liquid introduced and the tip speed of the fan blade. Therefore, the most important parameters to continuously monitor are the scrubbing liquid flow rate and the fan rotational speed (as indicated by the amperage of the fan motor or revolutions per minute (RPM)).

In addition to adding fan amperage as a monitoring parameter, the 2017 NESHAP amendments also specified a method in 40 CFR 63.864(j)(5)(i)(A) for setting the fan motor amperage operating limit, requiring that the minimum fan amperage operating limit be set as the lowest of the 1-hour average fan amperage values associated with each run demonstrating compliance with the applicable emission limit. The intent of establishing the operating limit as the lowest 1-hour average fan amperage was to demonstrate that the scrubber was operating as intended and removing HAP accordingly, because fan amperage values can be correlated with fan speed. This seemed reasonable during the development of the 2017 NESHAP amendments because the fans on these units are constant speed fans and changes in the load to the fan motor (*e.g.,* changes in gas density/pressure or fan belt issues) result in changes in the amperage needed to maintain the constant speed. For example, a scrubber operating without any scrubbing liquid or exhaust gas would pull a certain amount of amperage on the fan motor to maintain a constant speed. When the exhaust gas and scrubbing liquid are added, the fan motor amperage will increase to maintain that speed. Based on this concept, the basis for the fan motor amperage operating limit in the 2017 NESHAP amendments was that a drop in fan motor amperage below a certain point showed that the motor would no longer turn the fan properly (because, for example, the belt that connects the motor to the fan was slipping or broken), which in turn would mean the scrubber was not operating as well as it was during the emissions performance test.

As facilities began to plan their repeat performance test required by the 2017 NESHAP amendments and determine the appropriate operating parameters, they discovered that the method dictated to set the fan motor amperage did not accurately represent proper scrubber performance and submitted alternative monitoring requests. The alternative monitoring requests that EPA received explained that setting the fan amperage operating limit as outlined in the 2017 NESHAP amendments at 40 CFR 63.864(j)(5)(i)(A) could result in a minimum limit that does not correlate with scrubber emissions-reduction performance and cannot be achieved at all times, leading to deviations of the amperage operating parameter even when the fan is turning as designed and the scrubber is operating properly to achieve the required HAP reduction. More details on these alternative monitoring requests were provided in the memorandum titled, *Smelt Dissolving Tank Scrubber Operating Parameter Review,* in the docket for the 2019 proposed amendments (EPA Docket Item No. EPA–HQ–OAR–2014–0741–0277).

As explained in the preamble to the 2019 proposed amendments, after reviewing how the SDT scrubbers in question operate, the EPA agrees that use of the average fan motor amperage measured during the performance test to establish the fan amperage limit as dictated in 40 CFR 63.864(j)(5)(i)(A) of the 2017 NESHAP amendments can be problematic because it does not necessarily correlate with proper operation of the scrubber. The EPA's intent with adding the fan motor amperage alternative as part of the 2017 NESHAP amendments was to add regulatory flexibility while ensuring proper scrubber operation, not to arbitrarily set an operating limit that may not be met, even while the SDT scrubber is operating properly. The requirement for determining the fan motor amperage during the performance test to set the minimum limit was included in the 2017 NESHAP amendments (40 CFR part 63, subpart MM) which apply to new and existing sources (see 82 FR 47328, October 11, 2017) and in the NSPS promulgated in 2014 (40 CFR part 60, subpart BBa) which applies to new sources only (*see* 79 FR 18952, April 4, 2014). The issue was not identified in public comments on either rule but was discovered as existing sources began to implement the 2017 NESHAP amendments.

Upon further review of the EPA's responses to historical alternative monitoring requests included in the ADI, recent requests for alternative monitoring, and other available information, we recognize that the requirement to monitor fan amperage directly and establish a minimum fan amperage limit based on the average amperage measured during the performance test may result in deviations even when the scrubber is properly operating. Some facilities were approved by the EPA to use indicators of fan operation closely related to fan amperage (*e.g.,* RPM) and engineering design considerations when setting the site-specific fan amperage limit indicative of proper scrubber operation. For more details, see the memorandum titled *Smelt Dissolving Tank Scrubber Operating Parameter Review,* in the docket for the 2019 proposed amendments (EPA Docket Item No. EPA–HQ–OAR–2014–0741–0277).

To continue with our original intent to measure scrubber performance with an alternative method in these rules, the EPA proposed this rule to modify the language at 40 CFR 63.864(e)(10)(iii) and (j)(5)(i) to clarify how wet scrubber parameter limits are to be established and that fan amperage or RPM can be used to demonstrate compliance for the

[1] Fan amperage refers to the amperage delivered to the fan motor.

SDT scrubbers in question. Specifically, the EPA proposed to replace 40 CFR 63.864(j)(5)(i)(A) with a requirement to set the minimum scrubbing liquid flow rate operating limit as the lowest of the 1-hour average scrubbing liquid flow rate values associated with each test run demonstrating compliance with the applicable emission limit. This requirement was inadvertently left out of the 2017 NESHAP amendments but was required by other sections of the rule. Additionally, we proposed to add a new subsection, 40 CFR 63.864(j)(5)(i)(B), to clarify how wet scrubber fan amperage operating limits should be established.

The proposed text in 40 CFR 63.864(j)(5)(i)(B) included the same requirement that was previously in the 40 CFR 63.864(j)(5)(i) introductory paragraph, which stated that the scrubber pressure drop operating limit must be set as the lowest of the 1-hour average pressure drop values associated with each test run demonstrating compliance with the applicable emission limit, but also added that for dynamic or low-energy entrainment scrubbers, operating limits could be set using one of three methods specified in paragraphs 40 CFR 63.864(j)(5)(i)(B)(*1*) through (*3*).

- In 40 CFR 63.864(j)(5)(i)(B)(*1*), the EPA proposed to clarify that, for SDT dynamic wet scrubbers operating at ambient pressure or for low-energy entrainment scrubbers where fan speed does not vary, the minimum fan amperage operating limit must be set as the midpoint between the lowest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit and the no-load amperage value. Additionally, the proposed regulatory text specified that the no-load amperage value must be determined using manufacturers specifications or by performing a no-load test of the fan motor, and that it must be verified that the scrubber fan is operating within 5 percent of the design RPM during the emissions performance test. A definition of "no-load fan amperage" was proposed in 40 CFR 63.861.
- In 40 CFR 63.864(j)(5)(i)(B)(*2*), the EPA proposed to allow use of percent full load amperage (PFLA) to demonstrate compliance and require that the minimum PFLA to the fan motor be set as the percent of full load amperage under no-load, plus 10 percent. Because the no-load value represents the amperage pulled by the motor without a fan belt (*i.e.,* the fan is not engaged), the additional 10 percent was proposed to ensure that the belt has not broken, and the fan is engaged during operation. This new subsection also proposed requiring verification that the scrubber fan is operating within 5 percent of the design RPM during the emissions performance test.
- In 40 CFR 63.864(j)(5)(i)(B)(*3*), the EPA proposed to allow use of RPM to demonstrate compliance and a requirement that the minimum RPM be set at 95 percent of the design RPM. The EPA also proposed a conforming amendment in 40 CFR 63.867(c)(3)(iii)(C)(*1*) to incorporate this language.

Commenters on the 2019 proposed amendments supported the proposed methods for setting minimum operating limits in 40 CFR 63.864(j)(5)(i)(B)(*1*) and (*2*), except for the requirement to verify that the scrubber fan is operating within 5 percent of the design RPM during the emissions performance test. Commenters strongly opposed the requirement to verify the design RPM for reasons detailed in the response-to-comments memorandum, *Response to Comments to Proposed Rule Amending 40 CFR part 63 Subpart MM and 40 CFR part 60 Subpart BBa,* in the docket for this action. In brief, the commenters explained that facilities monitoring fan amperage may not have instrumentation in place to monitor fan RPM and may not have the design RPM value available; that there are safety issues associated with attempting to obtain a one-time measurement of RPM; and that operating within 5 percent of the design RPM during the emissions performance test is irrelevant if the performance test shows compliance with the PM emission limit and fan amperage (which is proportional to RPM) is monitored. In response to these comments, the requirement to verify that the scrubber fan is operating within 5 percent of the design RPM during the emissions performance test was removed from the final rule. All other requirements in 40 CFR 63.864(j)(5)(i)(B)(*1*) and (*2*) were finalized as proposed.

One commenter requested that the EPA modify the proposed definition of "no load fan amperage" by adding the following language to the end of the definition, "or the coupling to a direct drive fan was disconnected." The phrase was added as requested for the final rule.

Regarding the proposed 40 CFR 63.864(j)(5)(i)(B)(*2*), a commenter requested clarification on how the minimum PFLA operating limit should be calculated for an SDT scrubber fan and suggested that the EPA present an example PLFA calculation in the preamble to the final rule. In response to this request, we clarified in the final rule that the PFLA is calculated by dividing the no-load amperage value by the highest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in 40 CFR 63.862 multiplied by 100 *and then adding 10 percent* (emphasis added). We are including the following example of how to calculate the minimum PFLA. However, we are not including this equation in the final rule to avoid the need to renumber several subsequent rule equations.

Minimum PFLA = (No-load fan amperage/highest 1-hour average of fan amperages) × 100% + 10%

Where:

- The no-load fan amperage represents the amperage pulled by the fan motor when the fan is operating under no-load determined using manufacturers specifications or by performing a no-load test of the fan motor.
- The highest 1-hour average of fan amperages is the highest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in 40 CFR 63.862.

For example, assume Facility "A" performs a no-load test of their SDT scrubber's fan motor by running the motor without the fan belt attached. The measured fan amperage during the no-load test is 70 amperage. During a performance test of the SDT scrubber, the highest 1-hour average of the fan amperage values associated with each of the three test runs demonstrating compliance with the applicable emission limit is 179 amperage. Using these two amperage values, Facility A would calculate the PFLA alternative operating parameter limit for their SDT scrubber fan as follows:

Minimum PFLA = (70/179) × 100% + 10% = 49%

One commenter addressed the proposed 40 CFR 63.864(j)(5)(i)(B)(*3*), which would require the minimum fan RPM limit to be set as 5 percent lower than the design RPM. The commenter stated that the EPA should revise this requirement to be 5 percent lower than the lowest 1-hour average RPM measured during each test run demonstrating compliance with the applicable emission limit. The commenter explained that a facility could have modified the fan motor such that it is no longer operating at the design RPM, or it could have no documentation of the design RPM, but it is the performance of the scrubber during the stack test that matters. In response to this comment, 40 CFR

63.864(j)(5)(i)(B)(*3*) was finalized by revising it to require that the minimum RPM be set as 5 percent lower than the lowest 1-hour average RPM associated with each test run demonstrating compliance with the applicable emission limit, as requested. The EPA agrees that an operating limit based on the lowest 1-hour average RPM measured during each test run (for facilities that measure RPM) is adequate to demonstrate ongoing operation of the SDT scrubber. The 5-percent margin suggested by the commenter will allow for variability. The conforming revisions to 40 CFR 63.867(c)(3)(iii)(C)(1) that acknowledge RPM as an operating parameter for SDT dynamic or low-energy scrubbers were also finalized as proposed.

2. Other NESHAP Amendments

In addition to clarifying how to set SDT fan amperage operating limits, the EPA also proposed to correct the following cross-reference errors in the promulgated 40 CFR part 63, subpart MM NESHAP:

- An incorrect paragraph reference in the definition of "modification" in 40 CFR 63.861;
- An incorrect paragraph reference in 40 CFR 63.864(e)(10)(iii), referring to 40 CFR 63.864(e)(3)(i) instead of 40 CFR 63.864(e)(10)(i) as intended;
- Omission of reference to wet scrubber liquid flow rate in 40 CFR 63.864(j)(5) which specifies how to establish operating limits; and
- Incorrect paragraph references in 40 CFR 63.864(j)(1), (3), and (5) which cross-referenced requirements that were proposed (81 FR 97046, December 30, 2016) but not finalized for establishing site-specific electrostatic precipitator (ESP) operating limits for secondary voltage and secondary current (or total secondary power) for each ESP collection field. Instead of finalizing site-specific ESP operating limits, the EPA finalized a requirement to maintain proper operation of the ESP's automatic voltage control (82 FR 47328, October 11, 2017), but inadvertently kept the cross-references to the proposed ESP operating limits in the final rule.

The EPA did not receive any comments on the first three corrections noted above and is finalizing these amendments as proposed.

A comment was received regarding the EPA's proposal to eliminate the reference to 40 CFR 63.864(e)(1) in 40 CFR 63.864(j)(1), (3), and (5) which pertain to determination of operating limits. The commenter stated that the EPA should also eliminate reference to 40 CFR 63.864(e)(2) in these sections because 40 CFR 63.864(e)(2) references 40 CFR 63.864(e)(1). The EPA agrees with the commenter's suggestion and eliminated the cross-reference to 40 CFR 63.864(e)(2) in 40 CFR 63.864(j)(1), (3), and (5) for the final amendments. 40 CFR 63.864(e)(2) specifies parameter monitoring requirements for kraft or soda recovery furnaces or lime kilns using an ESP followed by a wet scrubber. 40 CFR 63.864(e)(2) refers to 40 CFR 63.864(e)(1) to require facilities to maintain proper ESP automatic voltage control and refers to 40 CFR 63.864(e)(10) to require facilities to monitor wet scrubber parameters. While 40 CFR 63.864(j)(1), (3), and (5) no longer reference 40 CFR 63.864(e)(1) and (2), these sections retain the reference to 40 CFR 63.864(e)(10) with respect to wet scrubber operating limits.

B. What are the final amendments to the NSPS?

1. Alternative To Monitoring Pressure Drop for Certain SDT Scrubbers

The EPA proposed similar amendments to the fan amperage requirements in the NSPS as discussed in section II.A of this preamble for consistency between the NESHAP and NSPS that apply to the same scrubbers. Specifically, NSPS amendments were proposed for 40 CFR 60.284a(b)(2)(iii), (c)(3)(i), (c)(4), and (d)(4)(ii) and 40 CFR 60.287a(b)(4)(i) to add RPM language. As proposed, 40 CFR 60.284a(c)(4) referred to the procedures for establishing the SDT fan amperage operating limit in the NESHAP (40 CFR 63.864(j)(5)(i)(B)). A commenter requested that 40 CFR 60.284a(c)(4) specify how scrubber fan amperage operating limits should be set rather than referencing 40 CFR 63.864(j)(5)(i)(B) of the NESHAP (as proposed). The commenter noted that incorporation of the NESHAP reference is inappropriate because it requires the operating parameter limit to be set based on a performance test that demonstrates compliance with the applicable emission limit in 40 CFR 63.862, not 40 CFR 60.282a. In response to this comment, the EPA removed the reference to 40 CFR 63.864(j)(5)(i)(B) in 40 CFR 60.284a(c)(4) and replaced it with specific language describing how to set scrubber fan amperage operating parameter limits. The procedures added to the NSPS in 40 CFR 60.284a(c)(4) are consistent with the procedures specified in the NESHAP. The EPA also added the definition of "no-load fan amperage" to 40 CFR 60.281a because the definition is referenced in the language added in 40 CFR 63.864(j)(5)(i)(B).

2. Other NSPS Amendments

The EPA proposed to correct a cross-reference error in the promulgated Kraft Pulp Mills NSPS (40 CFR part 60, subpart BBa). Specifically, the EPA proposed to amend incorrect paragraph references in 40 CFR 60.285a(b)(1) and 60.285a(d)(1) intended to cross-reference the rule's oxygen correction equation. No comments were received on these changes so the EPA is finalizing these amendments as proposed.

III. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

The sources affected by this action are chemical pulp mills that use SDTs equipped with low-energy entrainment scrubbers or dynamic scrubbers that operate near atmospheric pressure. We estimate that there are 54 facilities that utilize these types of scrubbers.

B. What are the air quality impacts?

There are no air quality impacts associated with the final amendments.

C. What are the cost impacts?

No cost impacts are estimated to be associated with this action because the action serves only to provide regulatory clarity. This action reduces the likelihood that facilities will choose to submit site-specific alternative monitoring requests but does not change the scope of any regulatory requirements.

D. What are the economic impacts?

There are no economic impacts associated with the final amendments.

E. What are the benefits?

Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because we did not estimate any emission reductions associated with the action, we did not estimate any benefits from reducing emissions.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation (40 CFR part 63, subpart MM) and has assigned OMB control number 2060–0377. This action does not change the information collection requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action does not create any new requirements or burdens, and no costs are associated with this final action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. The EPA does not know of any pulp mills owned or operated by Indian tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by U.S.C. 804(2).

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, Monitoring requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR parts 60 and 63 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013

■ 2. In § 60.281a, add in alphabetical order the definition for "No-load fan amperage" to read as follows:

§ 60.281a Definitions.

* * * * *

No-load fan amperage means, for the purposes of this subpart, the amperage pulled by the fan motor when the fan is operating under no-load, specifically the amperage value the motor would use if the fan belt was removed or the coupling to a direct drive fan was disconnected.

* * * * *

■ 3. In § 60.284a, revise paragraphs (b)(2)(iii), (c)(3)(i), (c)(4), and (d)(4)(ii) to read as follows:

§ 60.284a Monitoring of emissions and operations.

* * * * *

(b) * * *

(2) * * *

(iii) As an alternative to pressure drop measurement under paragraph (b)(2)(i) of this section, a monitoring device for measurement of fan amperage or revolutions per minute (RPM) may be used for smelt dissolving tank dynamic scrubbers that operate at ambient pressure or for low-energy entrainment scrubbers where the fan speed does not vary.

* * * * *

(c) * * *

(3) * * *

(i) Calculate 12-hour block averages from the recorded measurements of wet scrubber pressure drop (or smelt dissolving tank scrubber fan amperage or RPM) and liquid flow rate (or liquid supply pressure), as applicable.

* * * * *

(4) During the initial performance test required in § 60.285a, the owner or operator must establish site-specific operating limits for the monitoring parameters in paragraphs (b)(2) through (4) of this section by continuously monitoring the parameters and determining the arithmetic average value of each parameter during the performance test. The arithmetic

average of the measured values for the three test runs establishes your minimum site-specific operating limit for each wet scrubber or ESP parameter (except for smelt dissolving tank scrubber fan amperage or RPM). For smelt dissolving tank scrubber fan amperage, set the minimum operating limit using one of the methods in paragraphs (c)(4)(i) or (ii) of this section. For smelt dissolving tank scrubber RPM, the minimum RPM must be set as specified in paragraph (c)(4)(iii) of this section. Multiple performance tests may be conducted to establish a range of parameter values. The owner or operator may establish replacement operating limits for the monitoring parameters during subsequent performance tests using the test methods in § 60.285a.

(i) The minimum fan amperage operating limit must be set as the midpoint between the lowest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in § 60.282a and the no-load amperage value. The no-load amperage value must be determined using manufacturers specifications, or by performing a no-load test of the fan motor for each smelt dissolving tank scrubber; or

(ii) The minimum percent full load amperage (PFLA) to the fan motor must be set as the percent of full load amperage under no-load, plus 10 percent. The PFLA is calculated by dividing the no-load amperage value by the highest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in § 60.282a multiplied by 100 and then adding 10 percent. The no-load amperage value must be determined using manufacturers specifications, or by performing a no-load test of the fan motor for each smelt dissolving tank scrubber.

(iii) The minimum RPM must be set as 5 percent lower than the lowest 1-hour average RPM associated with each test run demonstrating compliance with the applicable emission limit.

* * * * *

(d) * * *

(4) * * *

(ii) All 12-hour block average scrubber pressure drop (or fan amperage or RPM, if used as an alternative under paragraph (b)(2)(iii) of this section) measurements below the minimum site-specific limit established during performance testing during times when BLS or lime mud is fired (as applicable), except during startup and shutdown.

* * * * *

■ 4. In § 60.285a, revise paragraphs (b)(1) and (d)(1) to read as follows:

§ 60.285a Test methods and procedures.

* * * * *

(b) * * *

(1) Method 5 of appendix A–3 of this part must be used to determine the filterable particulate matter concentration. The sampling time and sample volume for each run must be at least 60 minutes and 0.90 dscm (31.8 dscf). Water must be used as the cleanup solvent instead of acetone in the sample recovery procedure. The particulate concentration must be corrected to the appropriate oxygen concentration according to § 60.284a(c)(1)(iii).

* * * * *

(d) * * *

(1) Method 16 of appendix A–6 of this part must be used to determine the TRS concentration. The TRS concentration must be corrected to the appropriate oxygen concentration using the procedure in § 60.284a(c)(1)(iii). The sampling time must be at least 3 hours, but no longer than 6 hours.

* * * * *

■ 5. In § 60.287a, revise paragraph (b)(4)(i) to read as follows:

§ 60.287a Recordkeeping.

* * * * *

(b) * * *

(4) * * *

(i) Records of the pressure drop of the gas stream through the control equipment (or smelt dissolving tank scrubber fan amperage or RPM), and

* * * * *

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

■ 7. In § 63.861, revise the definition for ''Modification'' and add in alphabetical order the definition for ''No-load fan amperage'' to read as follows:

§ 63.861 Definitions.

* * * * *

Modification means, for the purposes of § 63.862(a)(1)(ii)(D)(*1*), any physical change (excluding any routine part replacement or maintenance) or operational change that is made to the air pollution control device that could result in an increase in PM emissions.

* * * * *

No-load fan amperage means, for purposes of this subpart, the amperage pulled by the fan motor when the fan is operating under no-load, specifically the amperage value the motor would use if the fan belt was removed or the coupling to a direct drive fan was disconnected.

* * * * *

■ 8. In § 63.864, revise paragraphs (e)(10)(iii), (j)(1), (3), and (5) to read as follows:

§ 63.864 Monitoring requirements.

* * * * *

(e) * * *

(10) * * *

(iii) As an alternative to pressure drop measurement under paragraph (e)(10)(i) of this section, a monitoring device for measurement of fan amperage or fan revolutions per minute (RPM) may be used for smelt dissolving tank dynamic scrubbers that operate at ambient pressure or for low-energy entrainment scrubbers where the fan speed does not vary.

* * * * *

(j) * * *

(1) During the initial or periodic performance test required in § 63.865, the owner or operator of any affected source or process unit must establish operating limits for the monitoring parameters in paragraphs (e)(10) through (14) of this section, as appropriate; or

* * * * *

(3) The owner or operator of an affected source or process unit may establish expanded or replacement operating limits for the monitoring parameters listed in paragraphs (e)(10) through (14) of this section and established in paragraph (j)(1) or (2) of this section during subsequent performance tests using the test methods in § 63.865.

* * * * *

(5) New, expanded, or replacement operating limits for the monitoring parameter values listed in paragraphs (e)(10) through (14) of this section should be determined as described in paragraphs (j)(5)(i) and (ii) of this section.

(i) The owner or operator of an affected source or process unit that uses a wet scrubber must set minimum operating limits as described in paragraph (j)(5)(i)(A) and (B) of this section.

(A) Set the minimum scrubbing liquid flow rate operating limit as the lowest

of the 1-hour average scrubbing liquid flow rate values associated with each test run demonstrating compliance with the applicable emission limit in § 63.862.

(B) Set the minimum scrubber pressure drop operating limit as the lowest of the 1-hour average pressure drop values associated with each test run demonstrating compliance with the applicable emission limit in § 63.862; or for a smelt dissolving tank dynamic wet scrubber operating at ambient pressure or for low-energy entrainment scrubbers where fan speed does not vary, set the minimum operating limit using one of the methods in paragraph (j)(5)(i)(B)(*1*) through (*3*) of this section.

(*1*) The minimum fan amperage operating limit must be set as the midpoint between the lowest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in § 63.862 and the no-load amperage value. The no-load amperage value must be determined using manufacturers specifications, or by performing a no-load test of the fan motor for each smelt dissolving tank scrubber; or

(*2*) The minimum percent full load amperage (PFLA) to the fan motor must be set as the percent of full load amperage under no-load, plus 10 percent. The PFLA is calculated by dividing the no-load amperage value by the highest of the 1-hour average fan amperage values associated with each test run demonstrating compliance with the applicable emission limit in § 63.862 multiplied by 100 and then adding 10 percent. The no-load amperage value must be determined using manufacturers specifications, or by performing a no-load test of the fan motor for each smelt dissolving tank scrubber; or

(*3*) The minimum RPM must be set as 5 percent lower than the lowest 1-hour average RPM associated with each test run demonstrating compliance with the applicable emission limit.

(ii) [Reserved]

* * * * *

■ 9. In § 63.867, revise paragraph (c)(3)(iii)(C)(*1*) to read as follows:

§ 63.867 Reporting requirements.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(C) * * *

(1) The operating limits established during the performance test for scrubbing liquid flow rate and pressure drop across the scrubber (or alternatively, fan amperage or RPM if used for smelt dissolving tank scrubbers).

* * * * *

[FR Doc. 2020–22938 Filed 11–4–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0112; FRL–10015–69]

Thiamine Mononitrate; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of thiamine mononitrate (CAS Reg. No. 532–43–4) when used as an inert ingredient (enzyme cofactor) in pesticide products applied to/on all growing crops pre-harvest, limited to 0.1% (by weight) in pesticide formulations. SciReg, Inc on behalf of Valagro, S.p.A submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of thiamine mononitrate when used in accordance with this exemption. Vitamin B1 is also known as thiamine mononitrate. Throughout this document and for purposes of issuing the tolerance, EPA is using the name "thiamine mononitrate" to be consistent with standard agency nomenclature for the identification of this substance.

DATES: This regulation is effective November 5, 2020. Objections and requests for hearings must be received on or before January 4, 2021 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0112, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr50/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0112 in the subject line on the first page of your submission. All objections and requests for a hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0753; FRL–10006–68–OAR]

RIN 2060–AT01

National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Engine Test Cells/Stands source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action on amendments to the Engine Test Cells/Stands NESHAP addressing periods of startup, shutdown, and malfunction (SSM). These final amendments also include provisions regarding electronic reporting, as well as clarifying and technical corrections. These final amendments will result in improved compliance and implementation of the rule.

DATES: This final rule is effective on June 3, 2020. The incorporation by reference (IBR) of certain publications listed in the rule was approved by the Director of the Federal Register as of May 27, 2003.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0753. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Christopher Werner, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5133; fax number: (919) 541–4991; and email address: *werner.christopher@epa.gov.* For specific information regarding the risk modeling methodology, contact Ted Palma, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5470; fax number: (919) 541–0840; and email address: *palma.ted@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, U.S. EPA Region 5 (Mail Code R–19J), 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 353–6266; and email address: *ayres.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AAP American Academy of Pediatrics
AEGL acute exposure guideline level
APA Administrative Procedure Act
ATSDR Agency for Toxic Substances and Disease Registry
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDC Centers for Disease Control and Prevention
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CHIEF Clearinghouse for Inventories and Emissions Factors
CHPAC Children's Health Protection Advisory Committee
CO carbon monoxide
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEM–3 Human Exposure Model, Version 1.1.0
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IARC International Agency for Research on Cancer
IRIS Integrated Risk Information System
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
OAQPS Office of Air Quality Planning and Standards
OHEA Office of Health and Environmental Assessment
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
POM polycyclic organic matter
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
THC total hydrocarbons
TOSHI target organ-specific hazard index
tpy tons per year
$\mu g/m^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
VOC volatile organic compounds

Background information. On May 8, 2019, the EPA proposed revisions to the Engine Test Cells/Stands NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant public comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0753). A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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C. What changes did we propose for the Engine Test Cells/Stands source category in our May 8, 2019, proposal?
III. What is included in this final rule?
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D. Electronic Reporting Requirements for the Engine Test Cells/Stands Source Category
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B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
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F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS [1] code
Engine Test Facilities	Engine Test Cells/Stands ...	333120, 333618, 333111, 334312, 336111, 336120, 336112, 336992, 336312, 336350, 54171, 541380, 333611, 336411, 336412, 336414, 92711.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/engine-test-cellsstands-national-emission-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by August 3, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the

first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 20208, May 8, 2019.

B. What is the Engine Test Cells/Stands source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Engine Test Cells/Stands NESHAP on May 27, 2003 (68 FR 28774). The standards are codified at 40 CFR part 63, subpart PPPPP. The engine test facilities industry consists of facilities that utilize engine test cells/stands for testing of uninstalled stationary or uninstalled mobile engines. The source category covered by this MACT standard currently includes 59 facilities.

As promulgated in 2003, the Engine Test Cells/Stands NESHAP applies to engine test cells/stands located at major sources of HAP emissions. Because the NESHAP regulates the testing of uninstalled stationary or uninstalled mobile engines, it does not regulate the testing of any final product (*e.g.*, automobile, boat, or power generator). Engine test cells/stands are used for research and development activities (*e.g.*, new model development, endurance testing) and for quality control at engine production facilities. More information about this source category can be found in the proposal. See 84 FR 20211, May 8, 2019.

Engine test cells/stands emit HAP in the exhaust gases from combustion of gaseous and liquid fuels in the engines tested. The emission rates and annual emissions vary based on the size and design of the engines tested, the types of fuels burned, and the number, type, and duration of tests performed. Fuels used during testing include, but are not limited to, biofuels, natural gas, propane, gasoline, kerosene, jet fuel, diesel, and various grades of fuel oil.

The sources of emissions are the exhaust gases from combustion of fuels in the engines being tested in the test cells/stands. The primary HAP present in the exhaust gases from engine test cells/stands are formaldehyde, benzene, acetaldehyde, and 1,3-butadiene.

The Engine Test Cells/Stands NESHAP provides the owner or operator of a new or reconstructed affected source used in whole or in part for testing internal combustion engines with rated power of 25 horsepower or more and located at a major source of HAP emissions two compliance options: (1) Reduce carbon monoxide (CO) or total hydrocarbons (THC) emissions in the exhaust from the new or reconstructed affected source to 20 parts per million by volume dry basis or less, at 15-percent oxygen content, or (2) reduce CO or THC emissions in the exhaust from the new or reconstructed affected source by 96 percent or more. If a new or reconstructed affected source elects to comply with the percent reduction emission limitation, the affected source must conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis.

C. What changes did we propose for the Engine Test Cells/Stands source category in our May 8, 2019, proposal?

On May 8, 2019, the EPA published a proposed rule in the **Federal Register** for the Engine Test Cells/Stands NESHAP, 40 CFR part 63, subpart PPPPP, that took into consideration the RTR analyses. In the proposed rule, we proposed: No revisions to the numerical emissions limit based on the risk analysis and technology review; to amend provisions addressing periods of SSM; to amend provisions regarding electronic reporting; and to make certain clarifying and technical corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Engine Test Cells/Stands source category. This action also finalizes

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

changes to the NESHAP for that source category, including changes to SSM provisions, changes to electronic reporting requirements, as well as clarifying and technical corrections. This action also reflects certain revisions to the May 2019 proposal in consideration of comments received during the public comment period described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Engine Test Cells/Stands source category?

This section introduces the final amendments to the Engine Test Cells/Stands NESHAP being promulgated pursuant to CAA section 112(f). As proposed, we are finalizing our finding that risks remaining after implementation of the existing MACT standards for this source category are acceptable. Similarly, as proposed, we are finalizing the determination that the current NESHAP provides an ample margin of safety to protect public health, and that a more stringent standard is not necessary to prevent an adverse environmental effect. Therefore, we are not finalizing any revisions to the numerical emission limits based on the analysis conducted under CAA section 112(f), and we are readopting the current standards.

B. What are the final rule amendments based on the technology review for the Engine Test Cells/Stands source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the Engine Test Cells/Stands NESHAP to remove or revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.D.1 of the proposal preamble (84 FR 20208, May 8, 2019), the Engine Test Cells/Stands NESHAP requires that the standards apply at all times (see 40 CFR 63.9305(a)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

EPA is finalizing the SSM provisions as proposed without setting a separate standard for startup and shutdown as discussed in the proposal. See 84 FR 20226, May 8, 2019.

Further, the EPA is not finalizing standards for malfunctions. As discussed in the May 2019 proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. See 84 FR 20226 (May 8, 2019), for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, we are finalizing revisions to the General Provisions table to 40 CFR part 63, subpart PPPPP, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise the recordkeeping and reporting requirements as they relate to malfunctions, as further described below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.9305(a) that the standards apply at all times. See 84 FR 20228–29, May 8, 2019.

D. What other changes have been made to the NESHAP?

Consistent with the proposal, the EPA is finalizing the electronic reporting requirements, specifically that owners and operators of engine test cells/stands submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

We are also finalizing additional changes to the NESHAP that address technical and editorial corrections, as proposed and as described in section IV.E of this preamble.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on June 3, 2020. The compliance date for existing engine test cells/stands is December 1, 2020. New sources, including those that commenced construction or reconstruction after May 8, 2019, must comply with all of the revisions to the standards immediately upon the effective date of this action, June 3, 2020, or upon startup, whichever is later.

For existing affected sources, we are finalizing two changes, as proposed, that would impact ongoing compliance requirements for 40 CFR part 63, subpart PPPPP. As discussed elsewhere in this preamble, we are finalizing the requirement that performance test results, performance evaluation reports, and the semiannual reports using the new template be submitted electronically. We are also finalizing a change to the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan, as proposed. We have experience with similar industries that have been required to convert reporting mechanisms, install necessary hardware, install necessary software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters. This experience shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; adjust parameter monitoring and recording

systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is finalizing the requirement that existing affected sources be in compliance with all of the revised requirements of this rule within 180 days of the rule's effective date.

IV. What is the rationale for our final decisions and amendments for the Engine Test Cells/Stands source category?

For each of the issues addressed in the proposed rule, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key public comments and responses. For all comments not discussed in this preamble, comment summaries, and the EPA's responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

A. Residual Risk Review for the Engine Test Cells/Stands Source Category

1. What did we propose pursuant to CAA section 112(f) for the Engine Test Cells/Stands source category?

Pursuant to CAA section 112(f), the EPA conducted a risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the May 2019 proposed rule for the Engine Test Cells/Stands source category (84 FR 20208, May 8, 2019). The results of the risk assessment are presented briefly in Table 2 of this preamble and in more detail in the residual risk document titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is in the docket for this action.

TABLE 2—ENGINE TEST CELLS/STANDS INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at increased risk of cancer ≥1-in-1 million		Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		Based on actual emissions level
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	
59	20	70	2,700	190,000	0.005	0.02	0.1	0.5	HQ_{REL} = 9 (acrolein) HQ_{AEGL-1} = 0.4

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory. The respiratory TOSHI was calculated using the California EPA (CalEPA) chronic reference exposure level (REL) for acrolein. The EPA is in the process of updating the Integrated Risk Information System (IRIS) reference concentration (RfC) for acrolein but did not complete this update prior to signature of this final rule.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the chronic inhalation cancer risk assessment, based on actual emissions, show the maximum individual excess lifetime cancer risk (MIR) posed by the 59 facilities is 20-in-1 million, with benzene, 1,3-butadiene, formaldehyde, and acetaldehyde emissions from reciprocating engine testing as the major contributors to the risk. The total estimated cancer incidence from this source category is 0.005 excess cancer cases per year, or one excess case every 200 years. About 2,700 people are estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted by this source category, with 60 of those people estimated to have cancer risks above 10-in-1 million. The maximum chronic noncancer target organ-specific hazard index (TOSHI) value for the source category is 0.1 (respiratory) driven by emissions of acrolein, acetaldehyde, formaldehyde, and naphthalene from reciprocating engine testing. No one is exposed to TOSHI levels above 1.

The EPA also evaluated the cancer risk at the maximum emissions allowed by the MACT standard, or ''MACT-allowable emissions.'' Risk results from the inhalation risk assessment using the MACT-allowable emissions indicate that the cancer MIR is 70-in-1 million with benzene, 1,3-butadiene, formaldehyde, and acetaldehyde emissions from reciprocating engine testing driving the risks, and that the maximum chronic noncancer TOSHI value is 0.5 at the MACT-allowable emissions level with acrolein, acetaldehyde, formaldehyde, and naphthalene emissions from reciprocating engine testing driving the TOSHI. The total estimated cancer incidence from this source category considering allowable emissions is expected to be about 0.02 excess cancer cases per year or one excess case every 50 years. Based on MACT-allowable emission rates, approximately 190,000 people are estimated to have cancer risks above 1-in-1 million, with 500 of those people estimated to have cancer risks above 10-in-1 million. No people are estimated to have a noncancer hazard index (HI) above 1.

Table 1 of this preamble indicates that for the Engine Test Cells/Stands source category, the maximum acute HQ could be up to 9, driven by actual emissions of acrolein. To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, and in response to a key recommendation from the Science Advisory Board's peer review of the EPA's RTR risk assessment methodologies, we examined a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and uncertainties in acute health reference

values than there are in chronic health reference values. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures. However, the level of exposure that would cause health effects is not specifically known. Therefore, when an REL is exceeded and an Acute Exposure Guideline Level (AEGL–1) or Emergency Response Planning Guideline (ERPG–1) level is available (*i.e.,* levels at which mild, reversible effects are anticipated in the general public for a single exposure), we typically use them as an additional comparative measure, as they provide an upper bound for the threshold level of exposure above which exposed individuals could experience effects. As the exposure concentration increases above the acute REL, the potential for effects increases. The highest refined screening acute HQ value was 9 (based on the acute REL for acrolein). This value includes a refinement of determining the highest HQ value that occurs outside the boundaries of affected facilities. In this case the highest value (9) occurs adjacent to a property boundary in a remote wooded location. HQ values at all nearby residential locations are below 1. As noted previously, the highest HQ occurred when the primary source of the acrolein emissions from turbine engine testing operations was modeled with an hourly emissions multiplier of 9.5 times the annual emissions rate. For further information on the development of this multiplier, see Appendix 1 of the document titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action. The analysis also conservatively assumes all emission points at the facility impact the same receptor at the same time. As presented in Table 2, no facilities are estimated to have an HQ greater than 1 based on an AEGL or an ERPG.

Regarding multipathway risk screening, of the 59 facilities in the source category, 21 facilities reported emissions of carcinogenic hazardous air pollutants known to be persistent and bio-accumulative in the environment (PB–HAP) (arsenic and polycyclic organic matter (POM)), and 23 facilities reported emissions of non-carcinogenic PB–HAP (cadmium and mercury). Three of these facilities reported emissions of a carcinogenic PB–HAP (arsenic) that exceeded a Tier 1 cancer screening threshold emission rate, and one facility reported emissions of non-carcinogenic PB–HAP (cadmium and mercury) that exceeded a Tier 1 noncancer screening threshold emission rate. For facilities that exceeded the Tier 1 multipathway screening threshold emission rate for one or more PB–HAP, we used additional facility site-specific information to perform a Tier 2 screening assessment and determined the maximum chronic cancer and noncancer impacts for the source category. Based on the Tier 2 multipathway cancer assessment, the arsenic emissions exceeded the Tier 2 screening threshold emission rate by a factor of 2. An exceedance of a screening threshold emission rate in any of the tiers cannot be equated with a risk value or an HQ (or HI). Rather, it represents a high-end estimate of what the risk or hazard may be. For example, a screening threshold emission rate of 2 for a non-carcinogen can be interpreted to mean that we are confident that the HQ would be lower than 2. Similarly, a tier screening threshold emission rate of 30 for a carcinogen means that we are confident that the risk is lower than 30-in-1 million. Our confidence comes from the conservative, or health-protective, assumptions encompassed in the screening tiers: We choose inputs from the upper end of the range of possible values for the influential parameters used in the screening tiers, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. The Tier 2 noncancer screening threshold emission rate for both mercury and cadmium emissions were below 1. Thus, based on the Tier 2 results presented above, additional screening or site-specific assessments were not deemed necessary.

The EPA also conducted an environmental risk screening assessment for the Engine Test Cells/Stands source category for the following pollutants: Arsenic, cadmium, hydrochloric acid (HCl), hydrogen fluoride (HF), lead, mercury (methyl mercury and mercuric chloride), and POM. In the Tier 1 screening analysis for PB–HAP (other than lead, which was evaluated differently), arsenic and POM emissions had no exceedances of any of the ecological benchmarks evaluated. Divalent mercury, methyl mercury, and cadmium emissions had Tier 1 exceedances at one facility of surface soil benchmarks by a maximum screening value of 3. A Tier 2 screening analysis was performed for divalent mercury, methyl mercury, and cadmium emissions. In the Tier 2 screening analysis, there were no exceedances of any of the ecological benchmarks evaluated for any of the pollutants. For lead, we did not estimate any exceedances of the secondary lead National Ambient Air Quality Standard (NAAQS). For HCl and HF, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl and HF (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

An assessment of risk from facility-wide emissions was performed to provide context for the source category risks. The results of the facility-wide risk assessment for both MACT sources and non-MACT sources (*i.e.,* sources at the facility that are not included in the Engine Test Cells/Stands source category) indicate that 23 facilities included in the analysis have a facility-wide cancer MIR greater than or equal to 1-in-1 million, and 10 of those facilities have a facility-wide cancer MIR greater than or equal to 10-in-1 million. The maximum facility-wide cancer MIR is 70-in-1 million, mainly driven by emissions of chromium (VI) compounds from organic solvent (miscellaneous volatile organic compounds (VOC)) evaporation. The total estimated cancer incidence from the whole facility is 0.03 excess cancer cases per year, or one excess case every 33 years. Approximately 190,000 people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources at the 59 facilities in this source category, with 6,800 of those people estimated to have cancer risks above 10-in-1 million. The maximum facility-wide chronic noncancer TOSHI (neurological) for the source category is estimated to be less than 1 (at 0.4), mainly driven by emissions of lead compounds and hydrogen cyanide from open burning of rocket propellant (an industrial solid waste disposal process) and by trichloroethylene emissions from liquid waste (a general waste treatment process). None of the population around the 59 facilities are exposed to noncancer HI levels above 1, based on facility-wide emissions.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risks to individual demographic groups of the

populations living within 5 kilometers (km) and also the populations living within 50 km of the facilities. In each case, we found that just over 40 percent of the residents within these distances are classified as minority (compared to a national minority average of 38 percent of the population). When examining the population exposed to a cancer MIR at or above 1-in-1 million, we found that only 10 percent of them are categorized as minorities. Further, none of the population around the facilities is exposed to a chronic noncancer TOSHI greater than 1. For more information regarding the methodology and the results of the demographic analysis, see the technical report titled *Risk and Technology Review-Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* which is available in the docket for this action.

The EPA weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from this source category are acceptable. We then considered whether the current NESHAP for the source category provides an ample margin of safety to protect public health, and whether more stringent standards are necessary to prevent an adverse environmental effect, by taking into consideration costs, energy, safety, and other relevant factors. In determining whether the current standards provide an ample margin of safety to protect public health, we examined the same risk factors that we investigated for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emission control options that might reduce risk associated with emissions from the source category. We proposed that the 2003 Engine Test Cells/Stands NESHAP requirements provide an ample margin of safety to protect public health. Based on the results of our environmental risk screening assessment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the Engine Test Cells/Stands source category?

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed.

3. What key comments did we receive on the risk review, and what are our responses?

The EPA received comments in support of and against the proposed risk review and our proposed determination that no revisions are warranted under CAA section 112(f)(2). Comments that were not supportive of the risk review were considered at length.

Comment: One commenter argued that the EPA had failed to quantify and reduce the health risks posed by lead emissions. The commenter noted that engine test cells/stands emit 0.03 tons of lead per year. The commenter noted that lead is particularly harmful to children and the developing fetus. The commenter was concerned the EPA had not quantified the health risks from lead emissions and disagreed with the Agency's determination that no individual source is causing an exceedance of the NAAQS for Lead. The commenter asserted that EPA must not ignore the health risks lead causes, given that lead is a well-known toxic heavy metal with diverse and severe health impacts for which there is no safe level for human exposure. In particular, the commenter stated that lead is associated with neurological, hematological, and immune effects on children and hematological, cardiovascular, and renal effects on adults. The commenter also noted that children are particularly sensitive to the effects of lead, including sensory, motor, cognitive, and behavioral impacts. The commenter further noted that no safe blood lead level in children has been identified; that low levels of lead in blood have been shown to affect IQ and academic achievement; and that the effects of lead exposure cannot be remedied. According to the commenter, a recent study found that for every 0.2 micrograms per deciliter (μg/dL) of lead in the blood, an adolescent's IQ was reduced one point. Children residing in poverty and black children face higher exposures to lead and are consequently more susceptible to lead's health impacts. Reproductive effects, such as decreased sperm count in men and spontaneous abortions in women, have been associated with lead exposure. The commenter noted that the EPA has classified lead as a probable human carcinogen.

The commenter disagreed with the EPA's use of the 2008 lead NAAQS as a benchmark for determining acceptable risk and argued that the EPA's assessment of the health risks for lead was inadequate. The commenter noted that the EPA, Centers for Disease Control and Prevention (CDC), CalEPA, and the American Academy of Pediatrics (AAP) acknowledge that no safe level of lead can be identified. By relying on the lead NAAQS rather than conducting an independent risk assessment, the commenter believed the EPA's risk assessment for lead was inadequate because the EPA had not assessed the inhalation risks (from breathing) and multipathway risks (from other types of exposure). The commenter argued that the EPA cannot presume that achieving an ambient air concentration of the NAAQS for lead is sufficient to ensure an acceptable health risk and provide an "ample margin of safety to protect public health" from lead for CAA section 112(f) purposes. The commenter observed that the NAAQS recognizes harm (including the loss of IQ points as an indicator of neurological harm) occurs below the level of the NAAQS.

The commenter also noted that the Children's Health Protection Advisory Committee (CHPAC) has advised the EPA to lower the lead NAAQS to 0.02 micrograms per cubic meter (μg/m^3) because the 2008 Lead NAAQS "is insufficient to protect children's health." The commenter argued that the current NAAQS addresses air-related population mean IQ loss in excess of 2 points and recognizes that on average higher neurological harm is occurring under the 2008 lead NAAQS. The commenter believed that it is likely harm occurs below the level of the 2008 NAAQS and that it is unacceptable for the EPA to ignore the harm caused by lead emissions. The commenter argued that EPA must address and incorporate the best currently available information on children's exposure, including the CHPAC recommendation of lowering the lead standards to 0.02 μg/m^3 from the current NAAQS level of 0.15 μg/m^3. The commenter noted that the CDC has recognized that there is no safe level for lead exposure and uses a reference level of 5 μg/dL, while California's health benchmark level at which measurable neurological harm can occur is 1.0 μg/dL. The commenter recommended that the EPA use the Integrated Exposure Uptake Biokinetic model for infants and children and the Adult Lead Methodology for fetus. In addition, the commenter suggested that the EPA should update the residual risk assessment for this source category to include available test data on lead in soil and waterways and to evaluate the potential health impacts resulting from the emission of lead from each facility. The commenter believes that additional monitoring should also be required to ensure that lead emitted from a facility

is at low enough concentrations such that it does not raise an individual's blood lead level by 1 μg/dL.

Response: The EPA disagrees with the commenter's assertion that we failed to assess risks from either lead or lead compounds for the Engine Test Cells/Stands source category. The inhalation risks of lead were assessed using Human Exposure Model, Version 1.5.5 (HEM–3) and the RfC values documented in Table 1 of Appendix 8 of the document titled, *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2019 Risk and Technology Review Proposed Rule.* The lead NAAQS was used to assess multipathway risk from lead emissions. See 84 FR 20218, May 8, 2019. The standard provided the benchmark for our decision that further assessment of health impacts from lead exposure from category sources is not necessary and is an otherwise appropriate use of the standard.

We also disagree with the commenter's assertion that either the use of the lead NAAQS does not sufficiently protect public health from lead emissions from this source category or the setting of the lead NAAQS did not reflect an adequate scientific assessment of risk. While recognizing that lead has been demonstrated to exert "a broad array of deleterious effects on multiple organ systems," the lead NAAQS targets the effects associated with relatively lower exposures and associated blood lead levels, specifically nervous system effects in children, including cognitive and neurobehavioral effects (73 FR 66976, November 12, 2008). The EPA establishes the NAAQS at a level to protect sensitive subpopulations, such as children and pregnant women. The 2008 decision on the lead NAAQS was informed by an evidence-based framework for neurocognitive effects in young children. In applying the evidence-based framework, the EPA focused on a subpopulation of U.S. children, those living near air sources and more likely to be exposed at the level of the standard; to the same effect.[2] In addition, in reviewing and sustaining the primary lead NAAQS, we note that the Court specifically noted that the lead NAAQs was targeted to protect children living near lead sources: "EPA explained that the scientific evidence showing the impact of lead exposure in young children in the United States led it 'to give greater prominence to children as the sensitive subpopulation in this review' and to focus its revision of the lead NAAQS on the 'sensitive subpopulation that is the group of children living near [lead emission] sources and more likely to be exposed at the level of the standard.' Given the scientific evidence on which it relied, the EPA's decision to base the revised lead NAAQS on protecting the subset of children likely to be exposed to airborne lead at the level of the standard was not arbitrary or capricious." *Coalition of Battery Recyclers,* 604 F. 3d 613, 618 (D.C. Cir. 2010).

As noted in the risk assessment document, there is no reference dose (RfD) or other comparable chronic health benchmark value for lead compounds. In 1988, the EPA's IRIS program also reviewed the health effects data regarding lead and its inorganic compounds and determined that it would be inappropriate to develop an RfD for these compounds, stating, "A great deal of information on the health effects of lead has been obtained through decades of medical observation and scientific research. This information has been assessed in the development of air and water quality criteria by the Agency's Office of Health and Environmental Assessment (OHEA) in support of regulatory decision-making by the Office of Air Quality Planning and Standards and by the Office of Drinking Water. By comparison to most other environmental toxicants, the degree of uncertainty about the health effects of lead is quite low. It appears that some of these effects, particularly changes in the levels of certain blood enzymes and in aspects of children's neurobehavioral development may occur at blood lead levels so low that a threshold has yet to be determined. The Agency's RfD Work Group discussed inorganic lead (and lead compounds) at two meetings (07/08/1985 and 07/22/1985) and considered it inappropriate to develop an RfD for inorganic lead."

The EPA's IRIS assessment for lead and lead compounds (inorganic) (CASRN 7439–92–1) can be found at: *https://www.epa.gov/iris/subst/0277.htm.*

With regard to the information identified by the commenter, much of this information was similar to information available at the time of the 2008 NAAQS decision. For example, in 2005, the CDC recognized the evidence of adverse health effects in children with blood lead levels below 10 μg/dL, and that there is no safe level of blood lead in young children.[3] The commenter also cites a benchmark analysis by California EPA OEHHA that was completed during the time of the last review.[4] The quantitative relationship from this analysis of a correlation of one IQ point change with a 1.0 μg/dL change in blood lead is actually a substantially smaller change in IQ per μg/dL blood lead than the slope of 1.75 IQ points per μg/dL blood lead used in the evidence-based framework that the Administrator relied upon in his 2008 decision on a revised level for the lead NAAQS (73 FR 66964, November 12, 2008). Regarding the CHPAC recommendation on level and averaging time referenced by the commenter, this was made to the EPA in January 2015 in the context of the current NAAQS review and the same comment was made and considered in the 2008 review that concluded with the current lead NAAQS.

We also disagree with the comment that EPA cannot presume that achieving an ambient air concentration of the NAAQS for lead is sufficient to ensure acceptable health risk and provide an "ample margin of safety to protect public health" from lead for CAA section 112(f) purposes. The EPA considered the primary NAAQS for lead—which incorporates an adequate margin of safety—in determining whether lead risks (taken together with cancer and other noncancer health risks) from air-borne lead from engine test facilities are acceptable or unacceptable, under CAA section 112(f)(2). As explained at proposal, ample margin of safety determinations, under CAA section 112(f)(2) are conducted separately, in accord with the two-step framework set forth in the Benzene NESHAP and *NRDC* v. *EPA* (the Vinyl Chloride Decision), 824 F. 2d at 1165, 1166 (D.C. Cir. 1987) and *NRDC* v. *EPA,* 902 F. 2d 962, 973–74 (D.C. Cir. 1990) (distinguishing the NAAQS process,

[2] See for example, 73 FR 67000/3—"The framework in effect focuses on the sensitive subpopulation that is the group of children living near sources and more likely to be exposed at the level of the standard. The evidence-based framework estimates a mean air-related IQ loss for this subpopulation of children; it does not estimate a mean for all U.S. children"; see also 73 FR 67005/1—"the air-related IQ loss framework provides estimates for the mean air-related IQ loss of a subset of the population of U.S. children, and there are uncertainties associated with those estimates. It provides estimates for that subset of children likely to be exposed to the level of the standard, which is generally expected to be the subpopulation of children living near sources who are likely to be most highly exposed."

[3] CDC (2005), *Preventing Lead Poisoning in Young Children: A Statement by the Centers for Disease Control and Prevention.* August 2005. *https://www.cdc.gov/nceh/lead/publications/prevleadpoisoning.pdf.*

[4] Carlisle, J. and K. Dowling. *Development of health criteria for school site risk assessment pursuant to health and safety code section 901(g): Child-specific benchmark change in blood lead concentration for school site risk assessment.* Final Report. Sacramento: Integrated Assessment Branch, OEHHA, California EPA. April 2007.

whereby the margin of safety analysis is incorporated as part of the standard without a two-step analysis, from residual risk determinations).[5] See 84 FR 20218 n.28.

After review of all the comments received, we determined that no changes needed to be made to the underlying risk assessment methodology. Additional comments and our specific responses can be found in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

The EPA evaluated all of the comments on the EPA's risk review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we proposed that the risks from the Engine Test Cells/Stands source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our risk review as proposed, and we are readopting the current standards.

B. Technology Review for the Engine Test Cells/Stands Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Engine Test Cells/Stands source category?

Pursuant to CAA section 112(d)(6), the EPA conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for control of HAP emissions from engine testing facilities. No cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review is in the memorandum titled *Technology Review for the Engine Test Cells/Stands Source Category,* which is in the docket for this action, and in the preamble to the proposed rule (84 FR 20208, May 8, 2019).

2. How did the technology review change for the Engine Test Cells/Stands source category?

The technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received comments in support of the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). We also received comments asserting that the technology review was inadequate for a variety of reasons, primarily because of failure to consider control technologies developed since the original NESHAP.

Comment: One commenter noted that advances in diesel engine design had greatly reduced air emissions from diesel engine test cells over the last few years. The commenter stated that new diesel engines are cleaner than they used to be and, as a result, emissions from engine test cells and stands also declined because they are testing engines that are operating more cleanly and efficiently. The commenter noted the EPA is moving forward with new diesel truck standards. The commenter thought the changes in the emissions from engines should allow test cells to reduce their emissions. These advances, the commenter argued, are developments the EPA should take into account. The commenter thought the EPA should revise the emission standards based on the ability to reduce emissions due to cleaner engines. The EPA should evaluate advances in more efficient engines and operating technology; use of lower HAP fuels; and alternative engines that do not rely on HAP-emitting fuels. The commenter argued that the EPA did not evaluate or take into account any of these developments, which the commenter contended was "unlawful, arbitrary, and capricious under § 7412(d)(6)."

Response: The EPA disagrees with the commenter's assertion that the existing MACT standard should be lowered due to new emission standards for diesel engines and advances in diesel engine design (presumably under CAA sections 202 and 213). We also disagree with the commenter's contention that by not considering these developments our technology review is "unlawful, arbitrary and capricious." CAA section 112(d)(6) requires the EPA to conduct a technology review to determine if there are "developments in practices, processes, or control technologies" that may be appropriate to incorporate into existing standards. At proposal, we did not propose any revision to the current MACT standard under CAA section 112(d)(6). We explained that the technology basis for the MACT standard was the use of add-on capture systems and control devices *(i.e.,* thermal oxidizers or catalytic oxidizers) and that our technology review under CAA section 112(d)(6) did not identify any new or improved add-on control technology, or any new work practices, operational procedures, process changes, or pollution prevention approaches that reduce emissions in the category that have been implemented at engine testing operations since promulgation of the current NESHAP. See 84 FR 20225–26, May 8, 2019.

Additionally, the emission standards in 40 CFR part 63, subpart PPPPP apply to the collection of engine test cells/stands located at a major source of HAP emissions that are used to test uninstalled stationary engines or uninstalled mobile engines. The subpart PPPPP standards do not apply to individual engines or to final products, such as automobiles or light and heavy-duty trucks. Rather, the purpose of engine testing is to simulate the operation of a specific type of engine under certain environmental conditions. In some cases, the testing confirms a new or refurbished engine is assembled correctly and will function as intended. In other cases, the testing measures the durability and performance of a new engine design or a new engine component.

In sum, under the CAA section 112(d)(6) technology review, the EPA is concluding that there are no new cost-effective controls that would achieve further emissions reductions and that the existing numerical emission limits in the NESHAP should be retained. For these reasons, consistent with the EPA's proposal, the emission limits in the NESHAP are not being revised.

Comment: One commenter was concerned the EPA had not collected the best available information on current controls and thought the EPA should have requested information from pollution control manufacturers and distributors, consulted with states and local air districts, consulted with the Institute of Clean Air Companies, and requested information from pollution control and monitoring companies regarding developments in controls for HAP pollutants. The commenter believed this information was readily available to the EPA and failing to contact control manufacturers biased the EPA's technology review away from the most current developments. The commenter thought the EPA should have assessed the technologies and tools

[5] The Court was referring to the predecessor provision to the current CAA section 112(f), but its analysis is equally applicable to the revised provision.

available in the market for the control of the pollutants and provide the information for notice-and-comment. The commenter believed that providing this information to the public would have a positive impact on the regulated industry, as well as community members exposed to pollution. The commenter thought this information could lead facilities to implement pollution controls with which they are not currently familiar and would create jobs and increase the economic success both of the regulated facility and the company selling the control or monitoring tools.

Response: The EPA disagrees with the commenter. CAA section 112(d)(6) requires the EPA to review and revise standards "as necessary (taking into account developments in practices, processes, and control technologies)" no less often than every 8 years. Pursuant to CAA section 112(d)(6), the EPA may consider cost in deciding whether to revise existing standards. Our review of control technologies and current industry processes and practices identified no new cost-effective controls that would achieve further emission reductions. As explained in the proposal preamble, the EPA completed a technology review as part of this rulemaking, which focused on identifying and evaluating any developments in practices, processes, and control technologies that occurred since 2003. See 84 FR 20213–14, 20225–26, May 8, 2019. In conducting the technology review for the Engine Test Cells/Stands source category, the EPA looked for add-on control technology that was not identified during the original NESHAP development and for improvements to existing add-on controls. We also looked for new work practices, operational procedures, process changes, and pollution prevention alternatives that have the potential to reduce emissions. We conducted extensive research to help us identify developments in control technology, work practices and procedures that could potentially reduce HAP emissions. Developments in practices, processes, and control technologies were investigated through discussions with industry representatives, searches of the EPA's Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emissions Rate Clearinghouse, site visits, and literature searches. We met several times with industry representatives and visited engine test facilities at four different plants. We also included questions in a questionnaire that specifically asked companies to provide information on their add-on control devices and any work practices they use to reduce emissions. The questionnaire was completed by multiple companies and covered over 40 individual facilities known to operate engine test cells/stands. Fifteen of these facilities were located at major sources of HAP, while the remainder were located at area sources. The Agency's review found no new add-on control technology, no developments in existing add-on control technology, and no new work practices, operational changes, or pollution prevention practices that would result in further reductions in emissions from this source category. For a detailed discussion of the findings, please refer to the *Technology Review for the Engine Test Cells/Stands Source Category* memorandum, in the docket (Docket ID Item No. EPA–HQ–OAR–2018–0753–0031).

The EPA also reviewed numerous construction and operating permits issued by permitting authorities to major and area sources that operate engine test facilities. As part of these reviews, we looked for any new control technology or work practice standards required by a state or local agency. We also provided a 45-day comment period on our proposed conclusion that would allow industry, state, and local air agencies, control device manufacturers, and other stakeholders to provide information on any new technologies and work practices that we may have overlooked. However, no new technologies or work practice approaches were identified in the public comments we received. Commenters did not provide any additional information on control technology for this source category and the EPA did not receive any additional information based on the proposal. The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem and courts generally defer to the Agency's decision to proceed on the basis of imperfect scientific information, rather than to "invest the resources to conduct the perfect study." *Sierra Club* v. *EPA,* 167 F. 3d 658, 662 (D.C. Cir. 1999).

For these reasons, the EPA is not persuaded by these comments and rather considers our review to be sufficiently rigorous. If any improvements in control technology, work practices, operational procedures, process changes, or pollution prevention approaches occurred since the 2003 NESHAP was finalized, we would have identified them. Since our review did not identify any improvements and no new methods have been identified during the public comment period, we are finalizing as proposed our determination that no changes to the emission standards are required pursuant to CAA section 112(d)(6).

Comment: One commenter noted that no reduction in emission limits for this source category has occurred since 2003 and stated that better control technology is available that would make further emission reductions possible.

Response: The EPA disagrees with the commenter. As explained previously, our review of control technologies and current industry processes and practices identified no new cost-effective controls that would achieve further emission reductions. Although the commenter stated that better technology is available, the commenter did not identify or provide evidence demonstrating any control technology that would achieve lower HAP emissions from engine test cells/stands. As explained previously, the Agency's review found no new add-on control technology, no developments in existing add-on control technology, and no new work practices, operational changes, or pollution prevention practices that would result in further reductions in emissions from this source category. For a detailed discussion of the findings of our technology review, please refer to the *Technology Review for the Engine Test Cells/Stands Source Category* memorandum, which is available in the docket (Docket ID Item No. EPA–HQ–OAR–2018–0753–0031).

Additional comments and our specific responses can be found in the comment summary and response document titled, *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach for the technology review?

The EPA evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review, and how we evaluate cost effectiveness, can be found in the memorandum titled *Technology Review for the Engine Test Cells/Stands Source Category,* which is available in the docket for this action, and in the

preamble to the proposed rule (84 FR 20208, May 8, 2019). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

C. SSM for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA is finalizing the proposed amendments to the Engine Test Cells/Stands NESHAP to remove or revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. The EPA proposed the amendments to remove or revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination or revision of SSM provisions is detailed in the preamble to the proposed rule (84 FR 20208, May 8, 2019).

2. How did the SSM provisions change for the Engine Test Cells/Stands source category?

The EPA is finalizing the SSM provisions as proposed (84 FR 20208, May 8, 2019) with minor changes to the General Provisions table (Table 7) and related cross-references to correct inadvertent errors made at proposal. These include the following:

- Addition of language in Table 7 indicating that several provisions are still applicable for 180 days following the effective date of this final rule; and
- Removal of cross-references to SSM exemption-related provisions.

We also note that because the final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable, the EPA is adding to the rule at 40 CFR 63.9355(c)(5) text that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: "The program of corrective action should be included in the plan required under § 63.8(d)(2)." A public comment was also received on this issue and more information can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action;

For reasons more fully described in the preamble at proposal, we also proposed to revise 40 CFR 63.9305 to add regulatory text regarding the general duty to minimize emissions. However, a typographical error was inadvertently made at the end of the sentence, "The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieve." This sentence should have read as follows, and we are finalizing it as such: "The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved."

Also, for reasons more fully described at proposal, we proposed to revise 40 CFR 63.9355 to add regulatory text regarding the requirements to record actions taken to minimize emissions and to record corrective actions. However, in 40 CFR 63.9355(a)(6), we inadvertently left the words "the cause" out of the sentence that read, "For each failure record the date, time and duration of each failure." This sentence should have read as follows, and we are finalizing it as such: "For each failure record the date, time, the cause and duration of each failure."

Finally, while we proposed to revise the performance testing requirement at 40 CFR 63.9321 to remove the language "according to the requirements in § 63.7(e)(1)" (because 40 CFR 63.7(e)(1) restated the SSM exemption), rule text showing this change was inadvertently not provided in the amendatory text appearing toward the end of the proposal document. Because this change, and the rationale for it, was adequately described in the proposal preamble, we are finalizing it as proposed.

3. What key comments did we receive on the SSM provisions, and what are our responses?

The EPA received comments related to our proposed revisions to the SSM provisions. One commenter generally supported the proposed revisions to the SSM provisions but disagreed with the Agency's approach to malfunctions.

Comment: One commenter disagreed with the EPA's assertion that the Agency has the discretion to set standards for malfunctions where feasible. The commenter asserted that the EPA has only the discretion provided by the CAA (See, *e.g., Clean Air Council* v. *EPA,* 862 F.3d at 9 (D.C. Cir. 2018)) and that the CAA does not give the EPA authority to set malfunction-based standards or exemptions (See 42 U.S.C. 7412(d), (h), and 7602(k)). The commenter noted the EPA has not acted on a petition for reconsideration that was filed when the EPA set a malfunction standard in the Refinery Sector Rule (See *Air Alliance Houston et al.* v. *EPA,* D.C. Cir. No. 16–1035 (filed February 7, 2016), which held amendments in abeyance pending EPA action on reconsideration). The commenter contends their reconsideration petition and comments filed in support of that petition and offered at the November 2016 public hearing have shown that the Refinery Sector Rule malfunction exemption is unlawful and arbitrary and should be removed from the standards. Since the EPA has not acted on the reconsideration petition and the Court has held the case in abeyance, the commenter said that no other similar proposals for other source categories should be made until the Refinery Sector Rule petition is resolved. The commenter maintains that the malfunction exemption in the Refinery Sector Rule remains under a cloud of substantial controversy and is unlawful and arbitrary.

Response: The EPA disagrees with the commenter's statement that the EPA lacks the authority to set standards for malfunctions. In fact, in the Court's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) vacating the SSM exemption in EPA's regulations implementing CAA section 112, the Court held that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that when CAA sections 112 and 302(k) are read together, Congress has required that there must be continuous CAA section 112–compliant standards. Pursuant to that holding, the EPA must apply a standard to periods of malfunction. In this final rule, the EPA has removed the SSM exemption and has required compliance with the existing standards during periods of SSM. Thus, the EPA has set a standard for periods of SSM as required by the *Sierra Club* decision.

The commenter's discussion of the EPA's decision in the Refinery Sector Rule, to set a standard for a particular type of malfunction that is different than the standards that apply in other circumstances, is not relevant here because the standards in this final rule for engine test cells apply to at all times, including during periods of malfunction. The commenter also

characterizes the Refinery Sector Rule as containing a malfunction exemption, so it is not clear whether the commenter's concern is with a standard that applies during malfunctions. In any event, the commenter's claim that the EPA has no authority to set standards for malfunctions is inconsistent with the *Sierra Club* SSM case.

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach for the SSM provisions?

The EPA evaluated all of the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule (84 FR 20208, May 8, 2019) and in section III.C of this preamble, we are finalizing our approach for the SSM provisions as proposed other than the minor changes detailed previously.

D. Electronic Reporting Requirements for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA proposed that owners and operators of engine test cells/stands must submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's CDX using the CEDRI. More information concerning our proposal on electronic reporting requirements can be found in the proposed rule (84 FR 20208, May 8, 2019).

2. How did the electronic reporting provisions change for the Engine Test Cells/Stands source category?

Since proposal, the electronic reporting provisions have not changed.

3. What key comments did we receive on the electronic reporting provisions, and what are our responses?

The EPA received comments both in support of and against the proposed electronic reporting provisions.

Comment: One commenter supported the proposed use of electronic reporting but recommended the EPA make certain changes to the proposed reporting and recordkeeping requirements. The commenter supported electronic reporting if it reduces regulatory burden, provides flexibility, and creates efficiencies for regulated entities. Although the commenter was supportive of electronic reporting, they wanted to ensure there is an orderly transition to the new reporting system. The commenter requested that the EPA should address the following issues:

- The addition of electronic reporting should not establish any new data requirements beyond what is currently required by the regulation. All data reporting requirements should tie to a regulatory citation;
- The reporting system should allow companies the option to provide explanatory comments on data or information submitted;
- Electronic reporting should not place further restrictions on who is eligible to submit a report;
- Sufficient compliance time should be allowed for companies to implement the revised requirements and to integrate EPA and company systems;
- Regulatory language should allow companies to submit hardcopy reports if there are problems with the EPA's reporting system availability or company systems;
- Electronic reporting should allow companies to submit reports as Portable Document Format (PDF) documents;
- The reporting system should allow updates or corrections to be submitted;
- The EPA should work with other regulatory authorities (*i.e.,* states, local agencies) to establish comparable or compatible electronic systems. The commenter said that electronic reporting to the EPA would not reduce reporting burden if companies reporting electronically to the EPA still have to submit hardcopy reports to other agencies that do not have electronic systems; and
- Any reporting templates should be available for review at the time a rule is proposed.

Response: The EPA acknowledges the comment. The new requirement to submit reports electronically does not establish any new data requirements, will allow facilities to submit some performance test results as an attachment within the electronic reporting tool (ERT) as well as include additional information in the semiannual report in PDF, allows facilities to make corrections to submittals through the resubmittal process in CEDRI, provides sufficient time for facilities to understand and comply with the new method of submitting reports, and includes provisions allowing extensions to be approved for situations where a facility is unable to successfully submit a report by the reporting deadline due to circumstances beyond their control (*e.g.,* outages of the EPA's CEDRI). Further, once submitted and certified, reports can be accessed by facility personnel and authorized EPA, Regional, state, local, and tribal reviewers.

For the semiannual compliance reports, reporters must use the spreadsheet template provided by the EPA to submit information to CEDRI. Additional information may be supplied through the comment field or as additional attachments through the process described on the Welcome tab of the spreadsheet template. In the proposal, we solicited comment on the content, layout and overall design of the template and a copy of the proposed template was made available in the docket (see *Engine_Test_Cells_Semiannual_Spreadsheet_Template_Draft,* available at Docket ID Item No. EPA–HQ–OAR–2018–0753–0147). 84 FR 20229, May 8, 2019. We received public comments on the draft template, which we took into consideration when preparing the final semiannual compliance report template. A copy of the final semiannual compliance report template is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0753). The official version of the report template is available at the CEDRI homepage (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*).

All facilities must submit their reports electronically. For reports that contain information claimed as CBI, reporters will submit redacted reports electronically and mail complete versions, including the CBI, on a compact disc, flash drive, or other electronic storage media to the EPA. Although facilities will not have the option to continue submitting reports in hardcopy, the EPA provides support for companies on the EPA's CEDRI website, accessed at *https://www.epa.gov/electronic-reporting-air-emissions/cedri.* An overview of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0753.

Comment: One commenter thought that the EPA should provide a notice and comment period only through a **Federal Register** document for all future changes in reporting templates. According to the commenter, at proposal, the EPA noted that the compliance reporting template for engine test facilities will be available on the CEDRI website. At the time of the proposal, the template was only available in the rule docket. While stakeholders can review the template as

it exists currently, the commenter said that any future changes to the template should be made available to affected reporters for comment prior to being adopted. The commenter stated that facilities do not regularly check the CEDRI website and would not be aware of any changes to the template. If the EPA changes the template without notice, the commenter said that facilities may use the wrong template or find they are in noncompliance. The commenter noted that a notification of proposed rules is required to be published in the **Federal Register** pursuant to the CAA and the Administrative Procedures Act (APA). The commenter cited both section 307(d)(3) of the CAA and section 553(b) of the APA as support:

Section 307(d)(3) of the CAA states, in the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the **Federal Register**, as provided under section 553(b) of Title 5 [of the United States Code], shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment. (42 U.S.C. 7607(d)(3)).

Section 553(b) of the APA states that general notice of proposed rulemaking shall be published in the **Federal Register**, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Except when notice or hearing is required by statute, it does not apply to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice, or when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. (5 U.S.C. 553(b).)

The commenter stated that none of the exceptions in the APA would apply to any future changes in reporting templates and noted that the **Federal Register** is the official publication for federal agencies to publish changes in regulatory requirements. The commenter said that companies typically monitor the **Federal Register** daily, but do not typically subscribe to the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv or periodically review the CEDRI website. The commenter said that it is not practical for companies to also review the CHIEF Listserv and CEDRI websites and that posting revised templates to these sites is not a ''legally-sufficient substitute for the **Federal Register**.'' The commenter also said that the EPA should provide notice of any proposed changes to electronic reporting requirements in a **Federal Register** notice as this approach will provide the regulated community with the notice that they need to review any proposed regulatory changes, provide comments, and initiate compliance plans. The commenter believed that posting to an EPA website does not provide adequate notice that electronic reporting requirements have changed and recommended that the EPA only make future changes to the template if a **Federal Register** notice is issued and an opportunity for public comment is provided.

Response: The EPA disagrees that future changes to a reporting template require public notice and comment. This rulemaking establishes the process the EPA will use to notify owners/operators of the availability of revised forms and provided interested parties with an opportunity to comment on that process. The fact that the commenters prefer a different process does not mean that the EPA lacks the authority to adopt the process proposed. We are making the CEDRI forms consistent with the underlying regulations, and as such, the public has already had a chance to review and comment on the content of these reports. These underlying regulations establish clear and objective criteria for EPA to apply in future non-rulemaking actions. The application of regulatory criteria to future individual situations does not require notice and comment rulemaking, either under section 307(d) of the CAA or the APA.

The EPA has amended the template to display the date of creation and revision number of the template. The date of the final rule is not included in the template.

Comment: One commenter disagreed with the EPA's proposed extension provisions for CEDRI outages or force majeure events. The commenter thought the proposed extension provisions were ''unlawful and arbitrary.'' The commenter argued that the extension provisions do not set a firm deadline to either submit required reports or to request an extension of the reporting deadline. The commenter also disagreed with the provision: ''[t]he decision to accept the claim . . . and allow an extension to the reporting deadline is solely within the discretion of the Administrator'' and with the EPA's proposed definition of ''force majeure event.'' The commenter believed these provisions were too broad and vague and was concerned a facility would use these provisions to evade the compliance reporting deadlines that assure compliance with applicable standards.

The commenter also thought that the EPA lacked the authority to allow exceptions or extensions for a ''force majeure event'' under the CAA. The commenters said the CAA was enacted to protect public health and welfare, to reduce pollution and the harm it causes, including cancer and other serious health impacts from HAP. The commenter said that creating a ''malfunction exemption'' contravenes the CAA. The commenter noted that the concept of ''force majeure'' comes from contract law and is not applicable to the CAA because it is not a contract. The commenter noted that ''force majeure is a phrase coined primarily for the convenience of contracting parties wishing to describe the facts that create a contractual impossibility due to an 'Act of God.' (See 6 A. Corbin, Corbin on Contracts, section 1324 (1962)). As Corbin points out, this term is outmoded and serves no useful purpose as a test of responsibility.'' *Perlman* v. *Pioneer Limited Partnership,* 918 F.2d 1244, 1248 n.5 (5th Cir. 1990). The commenter urged the EPA to not apply the concept of ''force majeure'' to any part of the CAA and said that doing so would be a variation of the prior malfunction exemptions that were found to be unlawful under the CAA. (See, *e.g., Sierra Club* v. *EPA,* 551 F.3d 1028 (D.C. Cir. 2008); *NRDC,* 749 F.3d at 1062–63). The commenter argued that there is no ''force majeure'' exception allowed for non-compliance with the CAA or its requirements, and that the EPA may not create an exemption because ''the Clean Air Act and amendments thereto contain no force majeure exception.'' *U.S.* v. *Wheeling-Pittsburgh Steel Corp.,* 818 F.2d 1077, 1088 (3d Cir. 1987) (refusing to provide for a free-standing ''force majeure'' exception that would have exempted emission violations that fell outside the contractual term used in a consent decree due to the lack of legal basis to do so). The commenter noted that the Court explained: ''After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.'' *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978).

The commenter thought that while CEDRI outages and some events may be out of a facility's control, the facility owners or operators have many factors within their control. The commenter said the EPA failed to evaluate the steps

a facility could take to predict and prevent delays in the reporting of pollution exceedances related to foreseeable types of events it defines as ''force majeure.'' If the EPA creates a ''force majeure event'' extension provision, the commenter recommended the facility be required to prevent similar problems in the future and report what steps it will take in the future to prevent the same problem from recurring. When there is such a problem, the commenter argued, the need for prompt reporting is important for ensuring actual emission exceedances end. The commenter asserted that allowing an unreasonable extension or not setting any deadline would be unlawful. The commenter thought reporting was especially important during the types of events described by the EPA. The commenter stated that reporting is necessary to protect public health and welfare.

The commenter also said the EPA did not identify any problems or burdens with the electronic reporting system that could justify an extension. The commenter noted that in a proposed rule for the Petroleum Refinery Sector, the EPA had stated: ''We note that the submission of ERT formatted performance test and performance evaluation reports using CEDRI is fully operational, and there are no known or reported system issues . . . In addition, the CDX Helpdesk staff are available during regular business hours to support industry users in completing their submissions electronically using CEDRI.'' The commenter also noted the EPA found that ''over 3,400 ERT files have been submitted to the EPA through CEDRI,'' only 43 help calls were received, and only 9 calls were referred to EPA staff for further assistance (see, NESHAP: Petroleum Refinery Sector Amendments, Proposal, 83 FR 15458, 15469 (April 10, 2018). The commenter said the EPA's proposed extension was not based on evidence of any problem with electronic reporting in the past, based on the record provided for public comment. The commenter said that no evidence was provided showing that a reporting problem could not be resolved through a case-by-case resolution or that any harm has been caused by not having an extension provision.

The commenter was concerned that delayed reporting and potentially failure to report would cause harm because it delays compliance assurance by the EPA, the states, and affected community residents. The commenter thought the extension provision would undermine the health and environmental protections of the standards, resulting in cancer and acute health threats from engine test facilities. The commenter urged the EPA to set a deadline for reporting and to assure that the extension request allows only a temporary delay in reporting, such as a 10-day extension, rather than an open-ended extension with no deadline.

Response: The EPA disagrees with these comments. The final rule requires electronic reporting for all facilities subject 40 CFR part 63, to subpart PPPPP as proposed. The commenter questioned the limited flexibility the EPA proposed (and is finalizing), namely inclusion of electronic reporting provisions for reporters facing circumstances beyond their control. The commenter asserts the case-by-case extension of report submittal deadlines is an ''unlawful exemption [from compliance with] the emissions standards.'' This is not the case, as explained below. The proposed provisions the commenter questions are as follows (emphasis added):

(3) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. *You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.* The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(4) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). *If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.* The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

There is no exception or exemption to reporting, much less an exemption from compliance with the numerical emission standards, rather, this regulatory provision only sets out a method for requesting an extension of the reporting deadline. Reporters are required to justify their request and identify a reporting date. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator (*i.e.,* the EPA Administrator or delegated authority as defined in 40 CFR 63.2) when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a Hurricane Katrina scale event may delay electronic reporting for much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to either access electronically stored data or to submit reports electronically. The Administrator (or delegated authority)

will be the most knowledgeable of the events leading to the request for extension and will assess whether an extension is appropriate, and, if so, a reasonable length for the extension. The Administrator (or delegated authority) may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation requires that the report be submitted electronically as soon as possible after the CEDRI outage or after the force majeure event resolves.

The concept of force majeure is not arbitrary, as it has been implemented since May 2007 within the CAA requirements through the performance test extensions requirements provided in 40 CFR 63.7(a)(4) and 60.8(a)(1). Like the performance test extensions, the approval of a requested extension of an electronic reporting deadline is at the discretion of the Administrator.

The EPA disagrees that the reporting extension will undermine enforcement because the Administrator has full discretion to accept or reject the claim of a CEDRI system outage or force majeure. As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility's claim is legitimate. Force majeure events (*e.g.,* natural disasters impacting a facility) are also usually well-known events.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting an extension request for an electronic report is very limited in that claims can only be made for an event outside of the owner's or operator's control that occurs in the 5 business days prior to the reporting deadline. The claim must then be approved by the Administrator, and in approving such a claim, the Administrator would agree that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this electronic reporting extension allow for the owner or operator to be out of compliance with the underlying emissions standards.

The EPA disagrees with the commenter's assumption that the requirement to report "as soon as possible" makes it likely that reporting will be significantly delayed, may lead a facility to drag its feet in submitting reports for an extended period, or may lead to a facility never reporting information. Each request for an extension of the electronic reporting deadline must be approved by the Administrator (or delegated authority), and each request must state the time requested for the extension as well as the dates and times at which the unsuccessful attempt(s) to access CEDRI were made in the case of a CEDRI outage. The EPA also disagrees that a delay in reporting due to a CEDRI outage or a force majeure event would necessitate a delay in a corrective action that would be taken to prevent harmful and unlawful emission exceedances. The facility must remain in compliance with all air emissions requirements and has an ongoing responsibility under the general duty clause of 40 CFR 63.6(e) to operate and maintain any affected source in a manner consistent with safety and good air pollution practices for minimizing emissions. An extension of the deadline for submitting an electronic report in no way eliminates culpability for exceedances of emissions limitations or the requirement to address them.

The EPA disagrees that the force majeure extension request must require a facility to report what steps it will take in the future to prevent the same problem from occurring. A force majeure event for the purpose of electronic reporting is defined as ". . . an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility." Examples of such events are acts of nature and acts of war or terrorism. By definition, force majeure events are not something that a facility is able to control, and, thus, there is no way for the facility to prevent it from happening.

The EPA disagrees that the existing statistics on the use of CEDRI and e-reporting precludes the need for a provision to account for an outage of the CEDRI system. Prudent management of electronic data systems builds in allowances for unexpected, non-routine delays, such as occurred on July 1, 2016, and October 20–23, 2017, and is consistent with the already-existing provisions afforded for unexpected, non-routine delays in performance testing (see 40 CFR 60.8(a)(1) and (2) and 40 CFR 63.7(a)(4)). For both electronic reporting and performance testing, owners or operators are to conduct and complete their activities within a short window of time; the EPA believes that it is prudent to allow owners or operators to make force majeure claims for situations beyond their reasonable control. The EPA also disagrees that incidental issues with questions on completing the form or the procedures for accessing CEDRI for which the CEDRI Helpdesk is available, are conditions that would be considered either force majeure or a CEDRI system outage. The existence of the Helpdesk for answering questions on procedures in submitting reports to CEDRI have no impact on the availability of CEDRI in such a circumstance.

The purpose of these requests for extensions are to accommodate owners and operators in cases where they cannot successfully submit a report electronically for reasons that are beyond their control and occur during a short window of time prior to the reporting deadline. The extension is not automatic, and the Administrator retains the right to accept or reject the request. The language was added as part of the standard electronic reporting language based on numerous comments received on the proposal for the Electronic Reporting and Recordkeeping Requirements for the New Source Performance Standards (80 FR 15100, March 20, 2015).

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach for the electronic reporting provisions?

The EPA evaluated all of the comments on the EPA's proposed amendments to the electronic reporting provisions. For the reasons explained in the proposed rule (84 FR 20208, May 8, 2019), we have determined the electronic submittal of the reports addressed in this final rule will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time

and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan[6] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy[7] developed in response to the White House's Digital Government Strategy.[8] For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP),* available in Docket ID No. EPA–HQ–OAR–2018–0753.

E. Technical and Editorial Changes for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA proposed the following technical and editorial changes to the existing NESHAP for the source category:

- Revising the monitoring requirements in 40 CFR 63.9307 to add THC as a continuous emission monitoring option and to add Performance Specification 8A and EPA Method 25A;
- Revising the initial compliance requirements in 40 CFR 63.9320 to include a provision for the performance test to be used to demonstrate compliance;
- Revising Tables 3 and 4 to 40 CFR part 63, subpart PPPPP, to add an alternative compliance option; and
- Revising section 40 CFR 63.9350 to address the reporting of performance tests and performance evaluations.

2. How did the technical and editorial changes change for the Engine Test Cells/Stands source category?

Since proposal, the technical and editorial changes have not changed.

3. What key comments did we receive on the technical and editorial changes, and what are our responses?

While no comments were received on the particular technical and editorial changes detailed above, additional comments of a technical and editorial nature were received. Our specific responses to those comments can be found in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach for the technical and editorial changes?

Because no comments were received on the technical and editorial changes that the EPA proposed, we determined that these changes should be finalized as proposed.

F. Additional Issue on Which Comment Was Requested: Prior Approval for an Aspect of Performance Testing

1. What did we propose for the Engine Test Cells/Stands source category?

In the proposal, the EPA specifically solicited comment on an aspect of initial performance testing. According to the existing regulations, if an affected source owner or operator elects to comply with the percent reduction emission limitation, an initial performance test must be conducted to determine the capture and control efficiencies of the equipment and to establish the operating limits to be achieved on a continuous basis. Performance tests are to be conducted under representative operating conditions, and the source is required to document the operating conditions during the test and explain why the conditions represent normal operation. In discussions prior to our May 2019 proposal, industry stakeholders raised the issue that, for facilities with multiple test cells/stands, it is difficult to define "normal" operation due to the several types of engine tests conducted, the varying operation conditions for the engine tests, the number of cells/stands, different kinds of test fuels, and the complex emission capture system. Thus, affected sources have felt the need to request approval on the testing protocol prior to conducting the performance tests to limit tests to representative cells. We requested comment on whether this process of requesting prior approval for determining what is considered "normal" operation for a specific affected facility is reasonable and appropriate for the one-time required performance test. More information concerning our request for comment on this aspect of initial performance testing can be found in the proposed rule (84 FR 20208, May 8, 2019).

2. How did the performance testing issue change for the Engine Test Cells/Stands source category?

Since proposal, this issue has not changed.

3. What key comments did we receive on the performance testing issue, and what are our responses?

One commenter commented more broadly on the issue of performance testing.

Comment: One commenter recommended that the EPA streamline requirements calling for Agency approval of alternate testing protocols and monitoring. The commenter said that this requirement creates unnecessary compliance complexity for facilities with multiple test cells and further stated that it was difficult to comply with this requirement when determining the capture efficiency for a cell that is not a permanent total enclosure (PTE), which is the case for cells in large complexes. The commenter said that in situations where there are temporary total enclosures (TTE), demonstrating TTE as defined by EPA Method 204 is challenging because of the size and set-up at a large facility (*e.g.,* approximately 90 cells). The gas-to-gas protocol, the commenter said, is not practical to implement due to the size and complexity of multiple cells within a large complex. The TTE requirements cannot be met as prescribed because:

- The test method requires the construction of a TTE over all of the test cells in order to measure emissions at exhaust points from the test cell building. With many cells and the volume of air flow involved, construction of a TTE is impossible because the temporary structure would be the size of a large building.
- Measuring all of the emission points from a test cell building at one location is not practical as this would require simultaneous testing at one location of exhaust volume and THC concentration from over 100 locations (90+ general ventilation exhaust points, scavenge air exhaust points systems, emission analyzer vents, and regenerative thermal oxidizers).
- The low CO volume generated from scavenge air and air handling units associated with the general ventilation system can be difficult to measure accurately and background CO levels can interfere with obtaining accurate

[6] U.S. EPA. *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[7] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[8] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

measurements for determining capture efficiency in testing TTE.

• Approval is needed to limit tests to "representative" cells. From a practical perspective, the absence of a definition of what is representative (*e.g.,* test type, common engine type, common fuel, CO measurement methods) results in delayed approvals from regulatory authorities as there is no defined basis for approval.

• Other TTE EPA Method 204 issues include:

○ A source must request alternative approval to deviate from EPA Method 204 requirements to use a single analyzer. The rule does not address the ability to use various calibration gases based on concentration ranges for several capture points.

○ Current rule excludes an allowance for measuring CO instead of VOC or THC, triggering the need for regulatory authority approval to measure CO. In most cases, VOC is too low of a concentration to measure from test cell operations.

○ When testing capture efficiency, an entity must lock room air handling system in place in order to accurately measure air flow from this source and generate valid data. This can trigger changes in ambient conditions for the engine test.

To address these issues, the commenter recommended the EPA should:

1. *Step 1:* Define 100-percent capture to exclude general ventilation, scavenge air systems, and test bench emissions. Based on testing experience and data, these sources represent less than 1 percent of the emissions.

○ Due to the size, number, and configuration of test cells, it is difficult to determine capture efficiency and meet the TTE requirements.

○ Alternatively, the EPA could establish a default capture rate for the *de minimis* emissions to avoid facilities having to undertake costly testing when the capture is known to be nearly complete.

2. *Step 2:* If a PTE cannot be met and the gas-to-gas protocol and TTE requirements are triggered:

○ Allow for a representative test and include a definition describing the requirements for representative test conditions in order to measure CO from various points from the enclosure. This would include testing a representative test cycle (*e.g.,* durability) on a single common engine/fuel type.

○ Modify requirements to allow for multiple analyzers with different measurement spans.

○ If testing of capture efficiency must be conducted, the test method should allow for the locking of the room air handling system. This is not considered normal operation but is necessary because facilities cannot accurately measure air flow when the system is in a constant state of adjusting.

○ Allow measurement of CO, not just THC or HAP.

Response: The EPA is not amending the test procedures and protocols required by this subpart at this time. The EPA also notes that the ability to use either alternative methods or deviations of methods may be pursued on a case by case basis through the site-specific test plan and the alternative method procedures of 40 CFR 63.7(e)(2). Sources may also request approval of a broadly applicable alternative test method through the EPA Measurement Technology Group.

4. What is the rationale for our final approach for the performance testing issue?

The EPA evaluated all of the comments on the EPA's proposed changes regarding initial performance testing. For the reasons explained previously, we determined that no changes should be made to current practice. Although affected sources may still request approval on the testing protocol, this practice will continue to not be required.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

There are currently 59 engine test cells/stands facilities operating in the United States that conduct engine testing operations and are subject to the Engine Test Cells/Stands NESHAP. The 40 CFR part 63, subpart PPPPP, affected source is the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile engines located at a major source of HAP emissions. A new or reconstructed affected source is a completely new engine testing source that commenced construction after May 14, 2002, or meets the definition of reconstruction and commenced reconstruction after May 14, 2002.

B. What are the air quality impacts?

At the current level of control, emissions of total HAP from the source category are estimated to be approximately 163 tpy. This represents a reduction in HAP emissions of about 80 tpy due to the current (2003) Engine Test Cells/Stands NESHAP. These final amendments require all affected sources subject to the emission standards in the Engine Test Cells/Stands NESHAP to operate without the SSM exemption. We do not expect that eliminating the SSM exemption will result in reduced emissions since the existing NESHAP requires that the operating limits established during the performance test for demonstrating continuous compliance must be met at all times.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

C. What are the cost impacts?

The EPA estimates that each facility in the source category will experience costs as a result of the final amendments. These costs are estimated as part of the reporting and recordkeeping costs of the final rule. Each facility will experience costs to read and understand the rule amendments. The total cost for this activity is estimated to be $4,029 annually, inclusive of all affected entities. Facilities will also experience costs associated with the elimination of the SSM exemption (including labor hours required for re-evaluation of previously developed SSM record systems), and costs associated with the requirement to electronically submit performance test, performance evaluation, and semi-annual compliance reports using CEDRI (including labor hours needed to become familiar with CEDRI and the reporting template for semi-annual compliance reports). There costs were also estimated as part of the reporting and recordkeeping costs of the rule amendments, however, we do not expect any net change in cost to result from elimination of the SSM exemption or the addition of the electronic reporting requirements. Therefore, the total estimated cost of this action, beyond the costs that would have been incurred by industry pursuant to the regulations in effect prior to this final rule, is $4,029 annually.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs associated with a

rule and the distribution of those costs among affected facilities can have a role in determining how the market will change in response to the rule. As presented in section VI.C of this preamble, the total estimated cost of this final rule is approximately $4,029 annually. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The EPA is not finalizing changes to the emission limit requirements and estimates the proposed changes to SSM, recordkeeping, reporting, and monitoring are not economically significant. Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were estimated, we did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Engine Test Cells/Stands source category across different demographic groups within the populations living near facilities.[9]

The results of the demographic analysis are summarized in Table 3 below. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

TABLE 3—ENGINE TEST CELLS/STANDS DEMOGRAPHIC RISK ANALYSIS RESULTS

[Engine Test Cells/Stands source category: Demographic assessment results—50 km study area radius]

		Population with cancer risk greater than or equal to 1 in 1 million	Population with HI greater than 1
	Nationwide	Source category	
Total Population	317,746,049	2,745	0
	White and minority by percent		
White	62	90	0
Minority	38	10	0
	Minority by percent		
African American	12	3	0
Native American	0.8	0.4	0
Hispanic or Latino (includes white and nonwhite)	18	2	0
Other and Multiracial	7	4	0
	Income by percent		
Below Poverty Level	14	13	0
Above Poverty Level	86	87	0
	Education by percent		
Over 25 and without a High School Diploma	14	9	0
Over 25 and with a High School Diploma	86	91	0
	Linguistically isolated by percent		
Linguistically Isolated	6	2	0

The results of the Engine Test Cells/Stands source category demographic analysis indicate that emissions from the source category expose approximately 2,700 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1 based on actual or allowable emissions. Regarding cancer risk, the specific demographic results indicate that the percentage of the population potentially impacted by engine test cells/stands emissions is greater than its corresponding nationwide percentage for the following demographics: White (90 percent for the source category compared to 62 percent nationwide), Above Poverty Level (87

[9] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

percent for the source category compared to 86 percent nationwide), and Over 25 and with a High School Diploma (91 percent for the source category compared to 86 percent nationwide). The remaining demographic group percentages (including the groups explicitly designated as minority) are the same or less than the corresponding nationwide percentages.

The EPA, therefore, reaffirms its determination that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations because it maintains the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* available in the docket for this action.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the document, *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2066.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the reporting and recordkeeping requirements for the Engine Test Cells/Stands NESHAP in the form of eliminating the SSM reporting and SSM plan requirements and requiring electronic submittal of all compliance reports (including performance test reports). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

Respondents/affected entities: Respondents are owners or operators of engine test cells/stands facilities subject to the Engine Test Cells/Standards NESHAP.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart PPPPP).

Estimated number of respondents: On average, over the next 3 years, approximately 12 existing major sources will be subject to these standards, of which seven are subject to emission limits, monitoring, recordkeeping, and reporting requirements. It is also estimated that one additional respondent will become subject to the emission standards over the 3-year period and two additional respondents will be subject only to the notification requirements.

Frequency of response: On average, this collection is expected to produce 18 responses per year.

Total estimated burden: 1,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,029 (per year), which is inclusive of the cost of familiarization with regulatory requirements, plus $2,900 annualized capital or operation and maintenance costs. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. During the original rulemaking, an ICR was sent to over 100 companies representing over 300 individual facilities. Using that information, along with discussion with industry stakeholders, it was determined that there were no major sources that were also owned by small entities. A review of the 59 facilities currently in this source category also concluded that none are owned by small entities. Thus, this action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The EPA does not know of any engine test cell/stand facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of the proposal preamble (84 FR 20208, May 8, 2019) and further documented in the risk report titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.B of the proposal preamble (84 FR 20208, May 8, 2019), section IV.A of this preamble, and the technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* which is available in the docket for this rulemaking.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Engine test cells/stands, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 63 is amended as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PPPPP—National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands

■ 2. Section 63.9295 is amended by revising paragraph (a) to read as follows:

§ 63.9295 When do I have to comply with this subpart?

(a) *Affected sources.* (1) If you start up your new or reconstructed affected source before May 27, 2003, you must comply with the emission limitations in this subpart no later than May 27, 2003; except that the compliance date for the requirements promulgated at §§ 63.9295, 63.9305, 63.9340, 63.9350, 63.9355, 63.9375, and Table 7 of 40 CFR part 63, subpart PPPPP, revised on June 3, 2020 is December 1, 2020.

(2) If you start up your new or reconstructed affected source on or after May 27, 2003, you must comply with the emission limitations in this subpart upon startup; except that if the initial startup of your new or reconstructed affected source occurs after May 27, 2003, but on or before May 8, 2019, the compliance date for the requirements promulgated at §§ 63.9295, 63.9305, 63.9340, 63.9350, 63.9355, 63.9375, and Table 7 of this subpart as revised on June 3, 2020 is December 1, 2020.

(3) If the initial startup of your new or reconstructed affected source occurs after May 8, 2019, the compliance date is June 3, 2020 or the date of startup, whichever is later.

* * * * *

■ 3. Section 63.9305 is revised to read as follows:

§ 63.9305 What are my general requirements for complying with this subpart?

(a) Prior to December 1, 2020, you must be in compliance with the emission limitation that applies to you at all times, except during periods of startup, shutdown, or malfunction (SSM) of your control device or associated monitoring equipment. On and after December 1, 2020, you must be in compliance with the applicable emission limitation at all times.

(b) If you must comply with the emission limitation, you must operate and maintain your engine test cell/stand, air pollution control equipment, and monitoring equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) For affected sources prior to December 1, 2020, you must develop a written SSM plan (SSMP) for emission control devices and associated monitoring equipment according to the provisions in § 63.6(e)(3). The plan will apply only to emission control devices, and not to engine test cells/stands.

■ 4. Section 63.9307 is amended by revising paragraphs (c)(1), (2), and (4) to read as follows:

§ 63.9307 What are my continuous emissions monitoring system installation, operation, and maintenance requirements?

* * * * *

(c) * * *

(1) You must install, operate, and maintain each CEMS according to the applicable Performance Specification (PS) of 40 CFR part 60, appendix B (PS–3, PS–4A, or PS–8).

(2) You must conduct a performance evaluation of each CEMS according to the requirements in 40 CFR 63.8 and according to PS–3 of 40 CFR part 60, appendix B, using Reference Method 3A or 3B for the O_2 CEMS, and according to PS–4A of 40 CFR part 60, appendix B, using Reference Method 10 or 10B for the CO CEMS, and according to PS–8 of CFR part 60, appendix B, using Reference Method 25A for the THC CEMS. If the fuel used in the engines being tested is natural gas, you may use ASTM D 6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide and Oxygen Concentrations in Emissions from

Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (incorporated by reference, see § 63.14). As an alternative to Method 3B, you may use ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," (incorporated by reference, see § 63.14).

* * * * *

(4) All CEMS data must be reduced as specified in § 63.8(g)(2) and recorded as CO or THC as carbon concentration in parts per million by volume, dry basis (ppmvd), corrected to 15 percent O_2 content.

* * * * *

■ 5. Section 63.9320 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.9320 What procedures must I use?

* * * * *

(b) You must conduct an initial performance evaluation of each capture and control system according to §§ 63.9321, 63.9322, 63.9323 and 63.9324, and each CEMS according to the requirements in 40 CFR 63.8 and according to the applicable Performance Specification of 40 CFR part 60, appendix B (PS–3, PS–4A, or PS–8).

(c) The initial demonstration of compliance with the carbon monoxide (CO) or THC concentration limitation consists of either the first 4-hour rolling average CO or THC concentration recorded after completion of the CEMS performance evaluation if CEMS are installed or the average of the test run averages during the initial performance test. You must correct the CO or THC concentration at the outlet of the engine test cell/stand or the emission control device to a dry basis and to 15 percent O_2 content according to Equation 1 of this section:

$$C_c = C_{unc} \left[\frac{5.9}{(20.9 - \%O2d)}\right]$$

Where:

C_c = concentration of CO or THC, corrected to 15 percent oxygen, ppmvd

C_{unc} = total uncorrected concentration of CO or THC, ppmvd

$\%O_{2d}$ = concentration of oxygen measured in gas stream, dry basis, percent by volume

* * * * *

■ 6. Section 63.9321 is amended by revising paragraph (a) introductory text to read as follows:

§ 63.9321 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.9310 under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h). Prior to December 1, 2020, the performance test must also be conducted according to the requirements in § 63.7(e)(1).

* * * * *

■ 7. Section 63.9330 is amended by revising paragraph (a) to read as follows:

§ 63.9330 How do I demonstrate initial compliance with the emission limitation?

(a) You must demonstrate initial compliance with the emission limitation that applies to you according to Table 4 to this subpart.

* * * * *

■ 8. Section 63.9340 is amended by revising paragraph (c) to read as follows:

§ 63.9340 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(c) Startups, shutdowns, and malfunctions:

(1) For affected sources prior to December 1, 2020, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of control devices and associated monitoring equipment are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

(2) The Administrator will determine whether deviations that occur during a period you identify as an SSM of control devices and associated monitoring equipment are violations, according to the provisions in § 63.6(e).

■ 9. Section 63.9350 is amended by:

■ a. Revising paragraph (a)(6) and;

■ b. Adding paragraph (a)(7);

■ c. Revising paragraph (c) introductory text;

■ d. Adding paragraph (c)(5);

■ e. Revising paragraph (d) introductory text;

■ f. Adding paragraph (d)(11);

■ g. Revising paragraph (e); and

■ h. Adding paragraphs (f) through (i).

The revisions and additions read as follows:

§ 63.9350 What reports must I submit and when?

(a) * * *

(6) For affected sources prior to December 1, 2020, if you had an SSM of a control device or associated monitoring equipment during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in paragraphs § 63.10(d)(5)(i).

(7) Beginning on December 1, 2020, submit all semiannual compliance reports following the procedure specified in paragraph (g) of this section.

* * * * *

(c) For each deviation from an emission limit, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (c)(1) through (4) of this section, except that on and after December 1, 2020 the semiannual compliance report must also include the information included in paragraph (c)(5) of this section.

* * * * *

(5) An estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(d) For each CEMS or CPMS deviation, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (d)(1) through (10) of this section, except that on and after December 1, 2020, the semiannual compliance report must also include the information included in paragraph (d)(11) of this section.

* * * * *

(11) The total operating time of each new or reconstructed engine test cell/stand during the reporting period.

(e) Prior to December 1, 2020, if you had an SSM of a control device or associated monitoring equipment during the semiannual reporting period that was not consistent with your SSMP, you must submit an immediate SSM report according to the requirements in § 63.10(d)(5)(ii).

(f) Within 60 days after the date of completing each performance test or performance evaluation required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) Data collected or performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test. Submit the results of the performance test or performance evaluation to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT.

Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) Data collected or performance evaluations of CMS measuring RATA pollutants using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test. The results of the performance test or performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) If you claim some of the information submitted under paragraph (f) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f)(1) of this section.

(g) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(h) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occured within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majuere, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 10. Section 63.9355 is amended by:

■ a. Revising paragraphs (a) introductory text and (a)(3);

■ b. Adding paragraphs (a)(6) through (8);

■ c. Revising paragraphs (b)(2), (c) introductory text, and (c)(2) and (4); and

■ d. Adding paragraph (c)(5).

The revisions and additions read as follows:

§ 63.9355 What records must I keep?

(a) You must keep the records as described in paragraphs (a)(1) through (5) of this section. After June 3, 2020, you must also keep the records as described in paragraphs (a)(6) through (8) of this section.

* * * * *

(3) Records of the occurrence and duration of each malfunction of the air pollution control equipment, if applicable, as required in § 63.9355.

* * * * *

(6) In the event that an affected unit fails to meet an applicable standard,

record the number of failures. For each failure record the date, time, the cause, and duration of each failure.

(7) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(8) Record actions taken to minimize emissions in accordance with § 63.9305, and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(b) * * *

(2) For affected sources prior to December 1, 2020, the records in § 63.6(e)(3)(iii) through (v) related to SSM.

* * * * *

(c) For each CEMS, you must keep the records as described in paragraph (c)(1) through (5) of this section.

* * * * *

(2) Previous (*i.e.,* superceded) versions of the performance evaluation plan as required in paragraph (c)(5) of this section.

* * * * *

(4) For affected sources prior to December 1, 2020, the records in § 63.6(e)(3)(iii) through (v) related to SSM of the control device and associated monitoring equipment.

(5) The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

* * * * *

■ 11. Section 63.9360 is amended by adding paragraph (d) to read as follows;

§ 63.9360 In what form and how long must I keep my records?

* * * * *

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 12. Section 63.9375 is amended in the definition of "Deviation" by revising paragraph (3) to read as follows:

§ 63.9375 What definitions apply to this subpart?

* * * * *

Deviation * * *

(3) Prior to December 1, 2020, fails to meet any emission limitation or operating limit in this subpart during malfunction, regardless of whether or not such failure is permitted by this subpart.

* * * * *

■ 13. Table 3 to subpart PPPPP is amended by revising the entry "1. The CO or THC outlet concentration emission limitation" to read as follows:

TABLE 3 TO SUBPART PPPPP OF PART 63—REQUIREMENTS FOR INITIAL COMPLIANCE DEMONSTRATIONS

*****

For each new or reconstructed affected source complying with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. The CO or THC outlet concentration emission limitation.	a. Demonstrate CO or THC emissions are 20 ppmvd or less.	i. EPA Methods 3A and 10 of appendix A to 40 CFR part 60 for CO measurement or EPA Method 25A of appendix A to 40 CFR part 60 for THC measurement; or	You must demonstrate that the outlet concentration of CO or THC emissions from the test cell/stand or emission control device is 20 ppmvd or less, corrected to 15 percent O_2 content, using the average of the test runs in the performance test.
		ii. A CEMS for CO or THC and O_2 at the outlet of the engine test cell/stand or emission control device.	This demonstration is conducted immediately following a successful performance evaluation of the CEMS as required in § 63.9320 (b). The demonstration consists of the first 4-hour rolling average of measurements. The CO or THC concentration must be corrected to 15 percent O_2 content, dry basis using Equation 1 in § 63.9320.
*	*	*	* * * *

■ 14. Table 4 of subpart PPPPP is revised to read as follows:

TABLE 4 TO SUBPART PPPPP OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

[As stated in § 63.9330, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:]

For the . . .	You have demonstrated initial compliance if . . .
1. CO or THC concentration emission limitation.	The first 4-hour rolling average CO or THC concentration is 20 ppmvd or less, corrected to 15 percent O_2 content if CEMS are installed or the average of the test run averages during the performance test is 20 ppmvd or less, corrected to 15 percent O_2 content.
2. CO or THC percent reduction emission limitation.	The first 4-hour rolling average reduction in CO or THC is 96 percent or more, dry basis, corrected to 15 percent O_2 content.

■ 15. Table 5 of subpart PPPPP is revised to read as follows:

TABLE 5 TO SUBPART PPPPP OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

[As stated in § 63.9340, you must demonstrate continuous compliance with each emission limitation that applies to you according to the following table:]

For the . . .	You must . . .	By . . .
1. CO or THC concentration emission limitation.	a. Demonstrate CO or THC emissions are 20 ppmvd or less over each 4- hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages used to calculate the 3-hr block average; or ii. Collecting the CEMS data according to § 63.9307(a), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, according to § 63.9320.
2. CO or THC percent reduction emission limitation.	a. Demonstrate a reduction in CO or THC of 96 percent or more over each 4-hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages; or ii. Collecting the CEMS data according to § 63.9307(b), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, calculating the CO or THC percent reduction according to § 63.9320.

■ 16. Table 7 of subpart PPPPP is revised to read as follows:

TABLE 7 TO SUBPART PPPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart PPPPP is also specified in § 63.9285.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart PPPPP.
§ 63.1(c)(5)	Notifications	Yes.	
§ 63.1(d)	[Reserved].		
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.9375.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities and Circumvention	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/ Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements-Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.9295 specifies the compliance dates.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	No	Subpart PPPPP does not establish standards for existing sources.
§ 63.6(c)(5)	Compliance Dates for Existing Sources	Yes	§ 63.9295(b) specifies the compliance date if a new or reconstructed area source becomes a major source.
§ 63.6(e)(1)(i)	Operation and Maintenance	Yes before December 1, 2020. No on and after December 1, 2020.	See § 63.9305 for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)	SSM Plan	Yes before December 1, 2020. No on and after December 1, 2020.	

TABLE 7 TO SUBPART PPPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.6(f)(1)	Compliance Except During SSM	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of Alternative Standards	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart PPPPP does not establish opacity standards and does require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	No	Compliance extension provisions apply to existing sources which do not have emission limitations in subpart PPPPP.
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance Test Dates	Yes.	
§ 63.7(a)(3)	Performance Test Required By the Administrator.	Yes.	
§ 63.7(b)–(d)	Performance Test Requirements-Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Testing.	Yes.	
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Yes before December 1, 2020. No, see § 63.9321, on and after December 1, 2020.	
§ 63.7(e)(2)–(4)	Conduct of Performance Tests	Yes.	
§ 63.7(f)	Alternative Test Methods	Yes.	
§ 63.7(g)–(h)	Performance Testing Requirements-Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes.	
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	Subpart PPPPP contains specific requirement for monitoring at § 63.9325.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart PPPPP does not have monitoring requirement for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes.	
§ 63.8(c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(c)(1)(ii)	Operation and Maintenance of CMS	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.	
§ 63.8(c)(4)	CMS	No	§ 63.9335(a) and (b) specifies the requirements.
§ 63.8(c)(5)	COMS	No	Subpart PPPPP does not have opacity or VE standards.
§ 63.8(c)(6)–(8)	CMS Requirements	Yes	Except that subpart PPPPP does not require COMS.
§ 63.8(d)(1)–(2)	CMS Quality Control	Yes.	
§ 63.8(d)(3)	CMS Quality Control	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(e)	CMS Performance	Yes	Except for § 63.8(e)(5)(ii) which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Yes.	
§ 63.8(g)	Data Reduction	Yes before December 1, 2020. No on and after December 1, 2020.	§§ 63.9335 and 63.9340 specify monitoring data reduction.
§ 63.9(a)–(b)	Notification Requirements	Yes.	
§ 63.9(c)	Request for Compliance Extension	No	Compliance extension to not apply to new or reconstructed sources.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	Yes.	
§ 63.9(e)	Notification of Performance Test	No	Subpart PPPPP does not require performance testing.
§ 63.9(f)	Notification of Opacity/VE test	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.9(g)(1)	Additional Notifications When Using CMS	Yes.	

TABLE 7 TO SUBPART PPPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP—Continued

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.9(g)(2)	Additional Notifications When Using CMS	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.9(g)(3)	Additional Notifications When Using CMS	Yes.	
§ 63.9(h)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(b)(2)(ii)	Recordkeeping of Occurrence and Duration of Malfunctions.	Yes before December 1, 2020. No on and after December 1, 2020.	See § 63.9355 for recordkeeping of (1) date, time, and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Recordkeeping of Maintenance on Controls and Monitoring Equipment.	Yes.	
§ 63.10(b)(2)(iv)–(v).	Actions Taken to Minimize Emissions During SSM.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(b)(2)(vi)–(xi).	CMS Records	Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)	Records	Yes.	
§ 63.10(b)(2)(xiv)	Records	Yes.	
§ 63.10(b)(3)	Recordkeeping for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6), (9)–(14).	Additional Recordkeeping for CMS	Yes.	
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Specific language is located at § 63.9355 of subpart PPPPP.
§ 63.10(c)(15)	Records Regarding the SSM Plan	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(d)(1)	General Reporting Requirements	Yes.	
§ 63.10(d)(2)	Report of Performance Test Results	Yes.	
§ 63.10(d)(3)	Reporting of Opacity or VE Observations	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.10(d)(4)	Progress Reports for Sources with Compliance Extensions.	No	Compliance extensions do not apply to new or reconstructed sources.
§ 63.10(d)(5)	SSM Reports	Yes before December 1, 2020. No on and after December 1, 2020.	On and after December 1, 2020, see § 63.9350 for malfunction reporting requirements.
§ 63.10(e)(1) and (2)(i).	Additional CMS Reports	Yes.	
§ 63.10(e)(2)(ii)	Additional CMS Reports	No	Subpart PPPPP does not require COMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Specific language in located in § 63.9350 of subpart PPPPP.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart PPPPP does not require COMS.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart PPPPP does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes	ASTM D 6522–00 and ANSI/ASME PTC 19.10–1981 (incorporated by reference—See § 63.14).
§ 63.15	Availability of Information/Confidentiality	Yes.	

[FR Doc. 2020–05909 Filed 6–2–20; 8:45 a.m.]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0357; FRL–10006–87–OAR]

RIN 2060–AT02

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards Residual Risk and Technology Review for Ethylene Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Ethylene Production source category regulated under National Emission Standards for Hazardous Air Pollutants (NESHAP). In addition, the U.S. Environmental Protection Agency (EPA) is taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including removing general exemptions for periods of SSM, adding work practice standards for periods of SSM where appropriate, and clarifying regulatory provisions for certain vent control bypasses. The EPA is also taking final action to revise requirements for heat exchange systems; add monitoring and operational requirements for flares; add provisions for electronic reporting of performance test results and other reports; and include other technical corrections to improve consistency and clarity. We estimate that these final amendments will reduce hazardous air pollutants (HAP) emissions from this source category by 29 tons per year (tpy) and reduce excess emissions of HAP from flares by an additional 1,430 tpy.

DATES: This final rule is effective on July 6, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 6, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0357. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Andrew Bouchard, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4036; and email address: *bouchard.andrew@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Mark Morris, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5416; and email address: *morris.mark@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7042; and email address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACC American Chemistry Council
APCD air pollution control device
ASME American Society of Mechanical Engineers
BAAQMD Bay Area Air Quality Management District
BTF beyond-the-floor
Btu/scf British thermal units per standard cubic foot
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CO_2 carbon dioxide
CRA Congressional Review Act
EFR external floating roof
EMACT Ethylene Production MACT
EPA Environmental Protection Agency
FTIR Fourier transform infrared spectrometry
gpm gallons per minute
GMACT Generic Maximum Achievable Control Technology
HAP hazardous air pollutant(s)
HI hazard index
HQ hazard quotient
IBR incorporation by reference
ICR Information Collection Request
IFR internal floating roof
km kilometer
kPa kilopascals
LDAR leak detection and repair
LEL lower explosive limit
MACT maximum achievable control technology
m^3 cubic meter
Mg/yr megagrams per year
MIR maximum individual risk
MTVP maximum true vapor pressure
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NHVcz net heating value in the combustion zone gas
NHVvgnet heating value in the vent gas
NOCS Notification of Compliance Status
NPDES National Pollutant Discharge Elimination System
NRDC Natural Resources Defense Council
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
POM polycyclic organic matter
ppm parts per million
ppmv parts per million by volume
PRA Paperwork Reduction Act
PRD pressure relief device(s)
psig pounds per square inch gauge
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SCAQMD South Coast Air Quality Management District
SSM startup, shutdown, and malfunction
TAC Texas Administrative Code
TCEQ Texas Commission on Environmental Quality
The Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compound(s)

Background information. On October 9, 2019, the EPA proposed revisions to the Generic Maximum Achievable Control Technology (GMACT) Standards NESHAP based on our RTR for the Ethylene Production source category. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the

Summary of Public Comments and Responses for Risk and Technology Review for Ethylene Production, in Docket ID No. EPA–HQ–OAR–2017–0357. A "tracked changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the Ethylene Production source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the Ethylene Production source category in our October 9, 2019, RTR proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the Ethylene Production source category?
B. What are the final rule amendments based on the technology review for the Ethylene Production source category?
C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) for the Ethylene Production source category?
D. What are the final rule amendments addressing emissions during periods of SSM?
E. What other changes have been made to the NESHAP?
F. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the Ethylene Production source category?
A. Residual Risk Review for the Ethylene Production Source Category
B. Technology Review for the Ethylene Production Source Category
C. Amendments Pursuant to CAA Section 112(d)(2) and (d)(3) for the Ethylene Production Source Category
D. Amendments Addressing Emissions During Periods of SSM
E. Technical Amendments to the EMACT Standards
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What analysis of environmental justice did we conduct?
F. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS[1] code
Ethylene Production	GMACT Standards	325110

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/acetal-resins-acrylic-modacrylic-fibers-carbon-black-hydrogen.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under the Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 4, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building,

1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tpy or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 54278, October 9, 2019.

B. What is the Ethylene Production source category and how does the NESHAP regulate HAP emissions from the source category?

The Ethylene Production MACT standards (herein called the EMACT standards) for the Ethylene Production source category are contained in the GMACT NESHAP which also includes MACT standards for several other source categories. The EMACT standards were promulgated on July 12, 2002 (67 FR 46258), and codified at 40 CFR part 63, subparts XX and YY. The EMACT standards regulate HAP emissions from ethylene production units located at major sources. An ethylene production unit is a chemical manufacturing process unit in which ethylene and/or propylene are produced by separation from petroleum refining process streams or by subjecting hydrocarbons to high temperatures in the presence of steam. The EMACT defines the affected source as all storage vessels, ethylene process vents, transfer racks, equipment, waste streams, heat exchange systems, and ethylene cracking furnaces and associated decoking operations that are associated with each ethylene production unit located at a major source as defined in CAA section 112(a).

As of January 1, 2017, there were 26 facilities in operation and subject to the EMACT standards. We are also aware of the expansion and construction of several facilities. Based upon this anticipated growth for the Ethylene Production source category, we estimate that a total of 31 facilities will ultimately be subject to the EMACT standards and complying with this final rule over the course of the next 3 years. The source category and the EMACT standards are further described in the October 9, 2019, RTR proposal. See 84 FR 54278.

C. What changes did we propose for the Ethylene Production source category in our October 9, 2019, RTR proposal?

On October 9, 2019, the EPA published a proposed rule in the **Federal Register** for the EMACT standards of the GMACT NESHAP, 40 CFR part 63, subparts XX and YY, that took into consideration the RTR analyses. We proposed to find that the risks from the source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. In addition, pursuant to the technology review for the Ethylene Production source category, we proposed that no revisions to the current standards are necessary for ethylene process vents, transfer racks, equipment leaks, and waste streams; however, we did propose changes for storage vessels and heat exchanger systems. We proposed revisions to the storage vessels control applicability requirements, pursuant to CAA section 112(d)(6), to tighten both the threshold for maximum true vapor pressure (MTVP) of total organic HAP (*i.e.,* decreasing it from 3.4 kilopascals (kPa) or greater to 0.69 kPa or greater) and the threshold for storage vessel capacity (*i.e.,* decreasing it from 95 cubic meter

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

(m^3) to 59 m^3) and to require storage vessels meeting these criteria to reduce emissions of total organic HAP by 98 weight-percent or use a floating roof storage vessel subject to the requirements of 40 CFR part 63, subpart WW. In addition, we proposed revisions to the heat exchange system requirements, pursuant to CAA section 112(d)(6), to require owners or operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 parts per million by volume (ppmv) or greater.

We also proposed the following amendments:

- Revisions to the operating and monitoring requirements for flares used as air pollution control devices (APCDs), pursuant to CAA section 112(d)(2) and (3);
- requirements and clarifications for periods of SSM and bypasses, including for pressure relief device(s) (PRD) releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, and certain gaseous streams routed to a fuel gas system, pursuant to CAA section 112(d)(2) and (3);
- work practice standards for decoking ethylene cracking furnaces (*i.e.,* minimizing emissions from the coke combustion activities in an ethylene cracking furnace), pursuant to CAA section 112(d)(2) and (3);
- revisions to the SSM provisions of the NESHAP (in addition to those related to flares, vent control bypasses, or ethylene cracking furnace decoking operations) in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (DC Cir. 2008), which vacated two provisions that exempted source owners and operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- a requirement for electronic submittal of performance test results and reports, and Notification of Compliance Status (NOCS) reports;
- removal of certain exemptions for once-through heat exchange systems;
- overlap provisions for equipment at ethylene production facilities subject to both the EMACT standards and synthetic organic chemicals manufacturing equipment leak standards at 40 CFR part 60, subpart VVa;
- IBR of an alternative test method for EPA Methods 3A and 3B (for the manual procedures only and not the instrumental procedures);
- IBR of an alternative test method for EPA Method 18 (with caveats);
- IBR of an alternative test method for EPA Method 320 (with caveats); and
- several minor editorial and technical changes in the subpart.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Ethylene Production source category and amends the EMACT standards based on those determinations. This action also finalizes other changes to the NESHAP, including adding requirements and clarifications for periods of SSM and bypasses; revisions to the operating and monitoring requirements for flares used as APCDs; adding provisions for electronic reporting of performance test results and reports, NOCS reports, and Periodic Reports; and other minor editorial and technical changes. This action also reflects several changes to the October 9, 2019 RTR proposal in consideration of comments received during the public comment period as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Ethylene Production source category?

This section describes the final amendments to the EMACT standards being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to the EMACT standards based on the risk reviews conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Section IV.A.3 of this preamble provides a summary of key comments we received regarding risk review and our responses.

B. What are the final rule amendments based on the technology review for the Ethylene Production source category?

The EPA is finalizing its proposed determination in the technology review that there are no developments in practices, processes, and control technologies that warrant revisions to the EMACT standards for process vents, transfer racks, equipment leaks, and waste streams in this source category. Therefore, we are not finalizing revisions to the EMACT standards for these emission sources under CAA section 112(d)(6). Also, based on comments received on the proposed rulemaking, we are not finalizing the proposed revisions to the EMACT standards for storage vessels under CAA section 112(d)(6) to tighten the control applicability thresholds for MTVP of total organic HAP (*i.e.,* decreasing it from 3.4 kPa or greater to 0.69 kPa or greater) and storage vessel capacity (*i.e.,* decreasing it from 95 m^3 to 59 m^3).

For heat exchange systems, we determined that there are developments in practices, processes, and control technologies that warrant revisions to the EMACT standards for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the EMACT standards, consistent with the October 9, 2019, RTR proposal, to include revisions to the heat exchange system requirements to require owners or operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater. In addition, based on comments received on the proposed rulemaking, we are also including an alternative mass-based leak action level of total strippable hydrocarbon equal to or greater than 0.18 kilograms per hour for heat exchange systems with a recirculation rate of 10,000 gallons per minute (gpm) or less.

Section IV.B.3 of this preamble provides a summary of key comments we received on the technology review and our responses.

C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) for the Ethylene Production source category?

Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008) and the October 9, 2019, RTR proposal, we are revising monitoring and operational requirements for flares to ensure that ethylene production facilities that use flares as APCDs meet the EMACT standards at all times when controlling HAP emissions. In addition, we are adding provisions and clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, and certain gaseous streams routed to a fuel gas system to ensure that CAA section 112 standards apply continuously. Also, for the same reason, we are adopting the proposed decoking operations work practice standards into the final rule with only minor changes, such as adding delay of repair provisions to the flame impingement inspection requirements, adding clarifying text to the carbon dioxide (CO_2) monitoring, coil outlet temperature monitoring, air removal, and radiant tube(s) treatment requirements, and removing unnecessary recordkeeping associated

with the time each isolation valve inspection is performed and the results of that inspection even if no problem was found. For details about these minor changes, refer to Section 6.7 of the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

Lastly, based on comments received on the proposed rulemaking, we are adding a separate standard for storage vessel degassing for storage vessels subject to the control requirements in Table 7 to 40 CFR 63.1103(e)(3)(b) and (e)(3)(c).

Section IV.C.3 of this preamble provides a summary of key comments we received on the CAA section 112(d)(2) and (3) provisions and our responses.

D. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the EMACT standards to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.E.1 of the proposal preamble, the Ethylene Production NESHAP requires that standards apply at all times (see 40 CFR 63.1108(a)(4)(i)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). We determined that facilities in this source category can generally meet the applicable EMACT standards at all times, including periods of startup and shutdown. As discussed in the proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. Where appropriate, and as discussed in section III.C of this preamble, we are also finalizing alternative standards for certain emission points during periods of SSM to ensure a continuous CAA section 112 standard applies "at all times." Other than for those specific emission points discussed in section III.C of this preamble, the EPA determined that no additional standards are needed to address emissions during periods of SSM.

We are also finalizing, as proposed, eliminating SSM exemptions for waste streams at facilities with a total annual benzene less than 10 megagrams per year (Mg/yr) and amending language in the definitions of "dilution steam blowdown waste stream" and "spent caustic waste stream" at 40 CFR 63.1082(b) to remove the exclusion for streams generated from sampling, maintenance activities, or shutdown purges. In addition, we are finalizing a revision to the performance testing requirements at 40 CFR 63.1108(b)(4)(ii)(B). The final performance testing provisions do not include the language that precludes startup and shutdown periods from being considered "representative" for purposes of performance testing, and instead allows performance testing during periods of startup or shutdown if specified by the Administrator. However, the final performance testing provisions prohibit performance testing during malfunctions because these conditions are not representative of normal operating conditions. The final rule also requires that operators maintain records to document that operating conditions during the test represent normal operations.

The legal rationale and detailed changes for SSM periods that we are finalizing here are set forth in the proposed rule. See 84 FR 54278, October 9, 2019. Also, based on comments received during the public comment period, we are revising 40 CFR 63.1103(e)(9) to sufficiently address the SSM exemption provisions from subparts referenced by the EMACT standards. For example, in addition to what we proposed, we are also clarifying that the certain referenced provisions do not apply when demonstrating compliance with the EMACT standards, such as phrases like "other than a start-up, shutdown, or malfunction" in the recordkeeping and reporting requirements of 40 CFR 63, subparts SS and UU. We are also not removing as proposed the term "breakdowns" in 40 CFR 63.998(b)(2)(i) as well as 40 CFR 63.998(d)(1)(ii) in its entirety.

Section IV.D.3 of this preamble provides a summary of key comments we received on the SSM provisions and our responses.

E. What other changes have been made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other NESHAP requirements. We describe these revisions in this section as well as other revisions that have changed since proposal. To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners and operators of facilities in the Ethylene Production source category submit electronic copies of certain required performance test results and reports and NOCS reports through the EPA's Central Data Exchange (CDX) website using an electronic performance test report tool called the Electronic Reporting Tool. In addition, in the final rule, we are correcting an error to clarify that Periodic Reports must also be submitted electronically (*i.e.,* through the EPA's CDX using the appropriate electronic report template for this subpart) beginning no later than the compliance dates specified in 40 CFR 63.1102(c) or once the report template has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website for at least 1 year, whichever date is later. Furthermore, we are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim.

To correct a disconnect between having a National Pollutant Discharge Elimination System (NPDES) permit that meets certain allowable discharge limits at the discharge point of a facility (*e.g.,* outfall) and being able to adequately identify a leak, we are finalizing, as proposed, the removal of certain exemptions for once-through heat exchange systems to comply with cooling water monitoring requirements.[2] Further, based on comments received on the proposed rulemaking, we are clarifying that the calibration drift assessment provisions at 40 CFR 60.485a(b)(2) apply only if the owner or

[2] Cooling water from a once-through heat exchange system at a petrochemical plant can be mixed with other sources of water (*e.g.,* cooling water used in once-through heat exchange systems in non-ethylene source categories, stormwater, treated wastewater, etc.) in sewers, trenches, and ponds prior to discharge from the plant. If this point of discharge from the plant is into a "water of the United States," then the facility is required to have a NPDES permit and to meet certain pollutant discharge limits.

operator is subject to those requirements in 40 CFR part 60, subpart VVa [see the 40 CFR part 60, subpart VVa overlap provisions in the final rule at 40 CFR 63.1100(g)(4)(iii)].

We are finalizing all of the revisions that we proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 9 of the proposal. See 84 FR 54278, October 9, 2019. We are also including several additional minor clarifying edits in the final rule based on comments received during the public comment period. We did not receive many substantive comments on these other amendments in the Ethylene Production RTR proposal. The comments and our specific responses to these items can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

F. What are the effective and compliance dates of the standards?

The revisions to the EMACT standards being promulgated in this action are effective on July 6, 2020. From our assessment of the timeframe needed for implementing the entirety of the revised requirements (see 84 FR 54278, October 9, 2019), the EPA proposed a period of 3 years to be the most expeditious compliance period practicable. Although opposing comments regarding the proposed compliance dates were received during the public comment period, we are finalizing the 3-year compliance period as proposed. Amendments to EMACT standards for adoption under CAA sections 112(d)(2) and (3) and 112(d)(6) are subject to the compliance deadlines outlined in the CAA under section 112(i). For existing sources, CAA section 112(i) provides that the compliance date shall be as expeditiously as practicable, but no later than 3 years after the effective date of the standard. For new sources, compliance is required by the effective date of the final amendments or upon startup, whichever is later. As explained in the preamble to the proposed rule (84 FR 54278, October 9, 2019), the EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose; and from our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 3 years after the effective date of the final rule to be the most expeditious compliance period practicable. Furthermore, as discussed in sections III and IV of this preamble, we are adding separate work practice standards to the final rule for the following SSM activities/events: (1) Periods of SSM for when flares are used as an APCD, (2) periods of SSM for certain vent streams (*i.e.* PRD releases and maintenance vents), (3) vent control bypasses for certain vent streams (*i.e.,* closed vent systems containing bypass lines, in situ sampling systems, and flares connected to fuel gas systems), and (4) decoking operations for ethylene cracking furnaces. The provisions being finalized are similar to the requirements promulgated in the Petroleum Refinery NESHAP. As we discovered during the Petroleum Refinery NESHAP rulemaking, the challenges faced by affected sources in complying with these requirements necessitated additional compliance time from what was promulgated, eventually having to move the original compliance date of these provisions from February 1, 2016, to August 1, 2018, an additional 2 and a half years.[3] Therefore the 3 year compliance date that was proposed for the EMACT standards provides a consistent time allowance to affected sources as was needed for Petroleum Refineries to fully implement the work practice standards. Thus, the compliance date of the final amendments for all existing affected sources, and all new affected sources that commence construction or reconstruction after December 6, 2000, and on or before October 9, 2019, is no later than July 6, 2023, or upon startup, whichever is later. The compliance date of the final amendments for all ethylene production new affected sources that commenced construction or reconstruction after October 9, 2019, is the effective date of these final rule amendments to the EMACT standards of July 6, 2020, or upon startup, whichever is later.

[3] *https://www.epa.gov/sites/production/files/2018-07/documents/petrefinery_compliance_ext_factsheet.pdf.*

IV. What is the rationale for our final decisions and amendments for the Ethylene Production source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the Ethylene Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the Ethylene Production source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the October 9, 2019, proposed rule for 40 CFR part 63, subparts XX and YY (84 FR 54278). The results of the risk assessment for the proposal are presented briefly in Table 2 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Ethylene Production Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this rulemaking.

TABLE 2—ETHYLENE PRODUCTION INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Based on actual emissions level
31	100	100	2.8 million ...	4.6 million ...	0.1	0.2	1	1	HQ_{REL} = <1

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category. There is only one census block, and one person, at this risk level.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ systems with the highest TOSHI for the source category are neurological and reproductive. The respiratory TOSHI was calculated using the California EPA chronic reference exposure level (REL) for acrolein.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

Using actual emissions data, the results of the proposed inhalation risk assessment, as shown in Table 2 of this preamble, indicate the estimated cancer maximum individual risk (MIR) is 100-in-1 million, with naphthalene and benzene as the major contributors to the risk. There is only one census block, and one person, at this risk level. The second-highest facility cancer risk is 30-in-1 million. At proposal, the total estimated cancer incidence from this source category was estimated to be 0.1 excess cancer cases per year, or one excess case in every 10 years. Approximately 2.8 million people were estimated to have cancer risks above 1-in-1 million from HAP emitted from the facilities in this source category. At proposal, the estimated maximum chronic noncancer TOSHI for the source category was 1 (neurological and respiratory) driven by emissions of manganese and epichlorohydrin.

Using the MACT-allowable emissions, the risk results at proposal for the inhalation risk assessment indicated that the estimated cancer MIR was 100-in-1 million with naphthalene and benzene emissions driving the risks, and that the estimated maximum chronic noncancer TOSHI was 1 with manganese and epichlorohydrin as the major contributors to the TOSHI. At proposal, the total estimated cancer incidence from this source category considering allowable emissions was 0.2 excess cancer cases per year or 1 excess case in every 5 years. Based on allowable emission rates, 4.6 million people were estimated to have cancer risks above 1-in-1 million.

As shown in Table 2 of this preamble, the reasonable worst-case acute HQ (based on the REL) at proposal was less than 1. This value is the highest HQ that is outside facility boundaries. No facilities were estimated to have an HQ greater than or equal to 1 based on any benchmark (REL, acute exposure guideline level, or emergency response planning guidelines). In addition, at proposal, we identified emissions of arsenic compounds, cadmium compounds, mercury compounds, and polycyclic organic matter (POM), all HAP known to be persistent and bio-accumulative in the environment. The multipathway risk screening assessment resulted in a maximum Tier 2 cancer screening value of 30 for arsenic and a maximum Tier 3 noncancer screening value of 2 for mercury compounds. Based on facility-specific analyses performed for mercury for other source categories, we concluded that such analyses would reduce the mercury screening value to 1 or lower. In addition, a screening-level evaluation of the potential adverse environmental risk associated with emissions of arsenic, cadmium, hydrochloric acid, hydrofluoric acid, lead, mercury, and POMs indicated that no ecological benchmarks were exceeded.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the risks posed by the Ethylene Production source category are acceptable (section IV.C.1 of proposal preamble, 84 FR 54311, October 9, 2019).

We then considered whether the existing EMACT standards provide an ample margin of safety to protect public health and whether, taking into consideration costs, energy, safety, and other relevant factors, more stringent standards are required to prevent an adverse environmental effect. In considering whether the standards are required to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that additional emissions controls for the Ethylene Production source category are not necessary to provide an ample margin of safety to protect public health and that more stringent standards are not necessary to prevent an adverse environmental effect (section IV.C.2 of proposal preamble, 84 FR 54312, October 9, 2019).

We also evaluate risk from whole facility emissions in order to help put the risks in context. Whole facility (or ''facility-wide'') emissions include those regulated under this source category plus all other emissions generated at each facility. The results of the chronic inhalation cancer risk assessment based on facility-wide emissions are more uncertain and rely on the quality of the emissions data collected for source categories outside this regulatory review. These emissions sources may not undergo the same level of data quality review as those being assessed in this regulatory assessment. The estimated maximum lifetime individual cancer risk based on facility-wide emissions is 2,000-in-1 million, with ethylene oxide from non-category (non-ethylene production process) emissions driving the risk. The total estimated cancer incidence based on facility-wide emissions is 1 excess cancer case per year. Approximately 6,500,000 people are estimated to have cancer risks above 1-in-1 million from HAP emitted from all sources at the facilities in this source category. The estimated maximum chronic noncancer hazard index (HI) based on facility-wide emissions is 4 (for the respiratory HI), driven by emissions of chlorine from non-category (non-ethylene production process) emissions. Approximately 200 people are estimated to be exposed to noncancer HI levels above 1.

2. How did the risk review change for the Ethylene Production source category?

We have not changed any aspect of the risk assessment since the October 9, 2019, RTR proposal for the Ethylene Production source category.

3. What key comments did we receive on the risk review, and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2) for the Ethylene Production source category. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, some commenters stated that the 100-in-1 million lifetime cancer risk cannot be considered safe or ''acceptable,'' and the EPA should include emissions outside of the source categories in question in the risk assessment and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes were necessary. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand'' (84 FR 54278, October 9, 2019; see also 54 FR 38045, September 9, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, multipathway risks, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the Ethylene Production source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, we are not revising the EMACT standards to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the Ethylene Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Ethylene Production source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current EMACT standards are necessary for ethylene process vents, transfer racks, equipment leaks, and waste streams (sections IV.D.2 through IV.D.5 of proposal preamble, 84 FR 54314, October 9, 2019). We did not find any developments (since promulgation of the original NESHAP) in practices, processes, and control technologies that could be applied to ethylene process vents and that could be used to reduce emissions from ethylene production facilities. We also did not identify any developments in work practices, pollution prevention techniques, or process changes that could achieve emission reductions from ethylene process vents. For transfer racks, we identified one emission reduction option, at proposal, to revise the transfer rack applicability threshold (for volumetric throughput of liquid loaded) from 76 m^3 per day to 1.8 m^3 per day to reflect the more stringent applicability threshold of other chemical sector standards that regulate emissions from transfer rack operations (*i.e.,* 40 CFR part 63, subparts F and G and 40 CFR part 63, subpart FFFF). At proposal, we also identified two developments in leak detection and repair (LDAR) practices and processes for equipment leaks: (1) Lowering the leak definition for valves in gas and vapor service or in light liquid service from 500 parts per million (ppm) to 100 ppm and (2) lowering the leak definition for pumps in light liquid service from 1,000 ppm to 500 ppm. In addition, we identified two emission reduction options, at proposal, for waste streams: (1) specific performance parameters for an enhanced biological unit beyond those required in the Benzene Waste Operations NESHAP and (2) treatment of wastewater streams with a volatile organic compounds (VOC) content of 750 ppmv or higher by steam stripping prior to any other treatment process for facilities with high organic loading rates (*i.e.,* facilities with total annualized benzene quantity of 10 Mg/yr or more). However, based on the costs and emission reductions for each of the proposed options (for transfer racks, equipment leaks, and waste streams), we considered none of these options to be cost effective for reducing emissions from these emission sources at ethylene production units, and we proposed that it is not necessary to revise the EMACT standards for these emission sources pursuant to CAA section 112(d)(6).

Also, pursuant to CAA section 112(d)(6), we proposed revisions to the current EMACT standards for storage vessels and heat exchange systems (sections IV.D.1 and IV.D.6 of proposal preamble, 84 FR 54314, October 9, 2019). For storage vessels, we proposed tightening both the applicability threshold for MTVP of total organic HAP (*i.e.,* decreasing it from 3.4 kPa or greater to 0.69 kPa or greater) and the applicability threshold for storage vessel capacity (*i.e.,* decreasing it from 95 m^3 to 59 m^3) in Table 7 at 40 CFR 63.1103(e)(3)(a)(1) and 40 CFR 63.1103(e)(3)(b)(1), respectively. For heat exchange systems, we proposed to add a new provision, 40 CFR 63.1086(e), that would require owners or operators to use the Modified El Paso Method to monitor for leaks and to repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater. We also proposed to add a new provision, 40 CFR 63.1088(d), establishing a delay of repair action level of total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv, that if exceeded during leak monitoring, would require immediate repair (*i.e.,* the leak found cannot be put on delay of repair and would be required to be repaired within 30 days of the monitoring event). This would apply to both monitoring heat exchange systems and individual heat exchangers by replacing the use of any 40 CFR part 136 water sampling method with the Modified El Paso Method and removing the option that allows for use of a surrogate indicator of leaks. Finally, we proposed to add a new provision, 40 CFR 63.1087(c), requiring re-monitoring at the monitoring location where a leak is identified to ensure that any leaks found are fixed.

2. How did the technology review change for the Ethylene Production source category?

The EPA has not changed any aspect of the technology review for process vents, transfer racks, equipment leaks, and waste streams since the October 9, 2019, RTR proposal for the Ethylene Production source category. However, based on comments received on the proposed rulemaking, we are not finalizing the proposed revisions to the EMACT standards for storage vessels under CAA section 112(d)(6) to tighten the applicability threshold for MTVP of total organic HAP (*i.e.,* decreasing it from 3.4 kPa or greater to 0.69 kPa or greater) and the applicability threshold for storage vessel capacity (*i.e.,* decreasing it from 95 m^3 to 59 m^3). Moreover, although we are revising the EMACT standards for heat exchange systems consistent with the October 9, 2019, RTR proposal, we are also including, based on comments received on the proposed rulemaking, an alternative mass-based leak action level of total strippable hydrocarbon equal to or greater than 0.18 kilograms per hour for heat exchange systems with a recirculation rate of 10,000 gpm or less.

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received comments in support of and against the proposed technology review amendments and our determination that no revisions were warranted under CAA section 112(d)(6) for process vents, transfer racks, equipment leaks, and waste streams in the Ethylene Production source category and that revisions were warranted for storage vessels and heat exchange systems in the Ethylene Production source category. Generally, for process vents, transfer racks, equipment leaks, and waste streams, the comments were either supportive of the determination that no cost-effective developments from the technology review were found, or that the Agency should re-open and re-evaluate the MACT standards for these emission sources and not consider cost in the technology review for the emissions sources. Based on our review of the comments received for process vents, transfer racks, equipment leaks, and waste streams, we are finalizing our determination that no cost-effective developments exist and that it is not necessary to revise these emission standards under CAA section 112(d)(6).

For storage vessels, the EPA received additional information from commenters on material composition, storage vessels that would be affected by the proposed option, and costs necessary for control of the storage vessels that would be affected by the proposed control option. After review of all the comments received, we determined that it is not cost effective to revise the storage vessel control requirements and are not finalizing revisions for this emissions source under CAA section 112(d)(6).

For heat exchange systems, the EPA received additional information from commenters on costs necessary for control of these sources as well as comments on a number of technical clarifications and allowance of compliance with an alternative mass-based leak action level should the EPA finalize the requirements for heat exchange systems. After review of all the comments received, we determined that it is cost effective to revise the heat exchange system requirements, and we are finalizing revisions for this emissions source under CAA section 112(d)(6) however, we are also including, based on comments received on the proposed rulemaking, an alternative mass-based leak action level of total strippable hydrocarbon equal to or greater than 0.18 kilograms per hour for heat exchange systems with a recirculation rate of 10,000 gpm or less.

This section provides comment and responses for the key comments received regarding the technology review amendments we proposed for storage vessels and heat exchange systems. Comment summaries and the EPA's responses for additional issues raised regarding the proposed requirements resulting from our technology review are in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

Comment: We received comments in support of and against the proposed changes to the storage vessel capacity and vapor pressure thresholds and corresponding control requirements. Most of the commenters opposed to the proposed requirements said the EPA's proposed changes to the capacity and vapor pressure thresholds for control of storage vessel emissions are not cost-effective. The commenters said that based on their analysis and using the EPA percentages of annual cost components (9.47-percent capital recovery, 5-percent maintenance, 4 percent for taxes, insurance, and administration, $380 per ton of VOC recovered), the average capital cost for control is approximately $1.2 million per tank, the average annual cost is $216,000 per tank, and the cost effectiveness of the control option is $108,000 per ton of VOC. The commenters said that their estimates account for materials and installation, in addition to the necessary cleaning and preparation required to install the floating roof or make the necessary connections to the closed vent system. The commenters asserted that degassing and cleaning do not appear to be included in the EPA's cost calculation and should be added as these are necessary steps to prepare the tanks for modification and ensure worker safety. The commenter said that their cost estimate is much higher than the EPA's estimate; and the commenters contended the EPA's estimated capital investment for the installation of an internal floating roof (IFR) on an existing fixed roof tank is unrealistic and should be revised. The commenters stated that at least one facility would install a new closed vent system to an existing control device, instead of an IFR, due to more favorable economics or site-specific constraints. The commenters said that the cost of this closed vent system is approximately $825,000 per tank (materials and installation). The commenters also provided certain technical details and cost information that they claimed as CBI.

Response: We are not finalizing the proposed requirements to tighten the storage vessel capacity and MTVP thresholds in response to comments and additional costs information that the EPA received on the proposal. Specifically, we reviewed and agree with the additional information submitted by commenters on the specific storage vessels that would be affected (*e.g.,* material composition and vapor pressure data, costs to control those storage vessels, and estimated emissions reductions). Importantly, the CBI submitted by one commenter provided details showing that installation of an IFR was not an option for their specific facility due to technical constraints. In addition, given that the proposed option would result in 10 tpy of VOC reductions nationwide (and lower emissions reductions for HAP) and cost over $1 million annually, we find the control of storage vessels at $108,000 per ton for VOC (and higher cost effectiveness for HAP) is not cost effective. Further, the proposed option would only affect six of the approximately 248 storage vessels in the source category [assuming an average of eight storage vessels per facility from the CAA section 114 Information Collection Request (ICR) data] and would not meaningfully reduce overall

emissions from the source category. Given all of this information, we are not finalizing the proposed requirements to tighten the storage vessel capacity and MTVP thresholds and are keeping the current MACT level of control for storage vessels in place.

Comment: A commenter stated that the proposed technology review amendments do not represent MACT and noted three control options were identified for storage vessels, but only one was adopted into the proposed rule. The commenter emphasized that many new ethylene production facilities are planned to be constructed or are under construction and the EPA must address their HAP emissions by applying the most stringent control technologies.

Similarly, another commenter stated that it would be unlawful, arbitrary, and capricious for the EPA not to set stronger standards for emissions from storage vessels. The commenter stated that although the EPA identified two other developments in technology for storage vessels: (1) Requiring LDAR for fittings on fixed roof storage vessels (*e.g.,* access hatches) using EPA Method 21, and the use of liquid level overfill warning monitors and roof landing warning monitors on storage vessels with an IFR or external floating roof (EFR); and (2) the conversion of EFRs to IFRs through use of geodesic domes, the EPA declined to require these controls simply because the control options were not cost effective. The commenter insisted that the EPA failed to show why the cost-per-ton it found for storage vessel developments are inappropriate and failed to show why further reductions are not required to satisfy CAA sections 112(d)(6) and (f)(2). The commenter noted the costs the EPA found ($6,120 per ton HAP to $44,100 per ton HAP) are lower than other rules where the EPA determined the cost-per-ton to be appropriate. As an example, the commenter cited the cost-per-ton from secondary lead smelting that were considered reasonable, ranging from $330,000 per ton to $1,500,000 per ton (77 FR 576, January 5, 2012). The commenter stated that because the EPA found higher cost-reduction ratios appropriate, it is arbitrary and capricious for the EPA not to require greater reductions for storage vessels, when they are achievable and would provide more protection for public health, as statutorily provided. The commenter asserted that several of these developments are already widely in use or required by other regulatory agencies. The commenter further argued that the EPA gives no explanation for why the Agency considers ''incremental cost effectiveness'' to be determinative rather than evaluating costs based on ''HAP cost effectiveness'' as it does for other source types, such as equipment leaks and waste streams.

The commenter argued that the EPA's decision to make cost-per-ton the standard-setting criterion and to choose a number it deems unreasonable, without a rational explanation, is arbitrary and capricious. The commenter stated the cost-per-ton of HAP reduction does not indicate whether a stronger standard is feasible and does not consider whether the industry could bear the costs of additional controls. The commenter stated that the ethylene production industry generated $50.8 billion in revenue in 2016 and the EPA cannot plausibly claim that this industry cannot afford to implement the identified storage vessel developments. The commenter noted that cost-per-ton says nothing about health risk, and that a ton of HAP is a very large amount. The commenter stated that the risk assessment for this source category shows the pollutants emitted in ethylene production are known to be hazardous at an exposure level of micrograms or less, and the carcinogens emitted (*e.g.,* benzene, formaldehyde, naphthalene) have no safe level of exposure. In addition, the commenter asserted that no two HAP create the same health risks and that reducing tons of one pollutant does not produce the same benefit as reducing tons of another. The commenter added that the EPA should not base its final standards on cost effectiveness at all; the Agency's job is simply to determine the ''maximum'' degree of reduction that can be achieved considering cost, under CAA section 112(d)(2), and to assure an ''ample margin of safety to protect public health'' under CAA section 112(f)(2). The commenter stressed that if the EPA wishes to consider cost effectiveness in any meaningful sense, it cannot rely on the cost-per-ton, which says nothing about the true effectiveness of reducing emissions of highly toxic pollutants, in terms of public health—which is a key factor missing from the EPA's analysis. Thus, the commenter concluded it was arbitrary and capricious for the EPA to decide that it was not necessary to update the standards to account for storage vessel developments based on cost.

The commenter also contended the EPA may consider cost but CAA section 112(d)(6) does not authorize the EPA to refuse to update standards based on cost. The commenter stated the Court has recognized that developments are the core requirement, and if developments have occurred, the EPA must account for those. The commenter further claimed that the EPA should follow the plain text of CAA section 112(d)(2)–(3) and applicable precedent requiring explicit authorization to consider cost. The commenter stated the EPA's cost-focused analysis ignores the statutory objective of assuring the ''maximum'' achievable degree of emission reduction provided in CAA section 112(d)(2), as implemented through the technology review. The commenter stated that this analysis also ignores the statutory goal of protecting public health, per CAA section 112 (f)(2).

The commenter also stated that although the EPA initially considered tightening the threshold for storage vessel capacity from 95 m^3 to 38 m^3, the EPA proposed a threshold of 59 m^3 because it found that ''it would not be cost-effective for this particular storage vessel to add additional controls due to its infrequent use.'' The commenter contended that the EPA cannot set a higher capacity threshold simply based on the cost of installing a control on one affected vessel, especially without information or analysis.

Response: We disagree with the comment that the EPA has an obligation to review prior MACT determinations and recalculate MACT floors as part of each CAA section 112(d)(6) review given that this argument has been repeatedly rejected by the Court. See, *e.g., Nat'l Ass'n of Surface Finishing* v. *EPA,* 795 F.3d 1 (DC Cir. 2015); *Association of Battery Recyclers* v. *EPA,* 716 F.3d 667, 673 (DC Cir. 2013); *Natural Resources Defense Council* (*NRDC*) v. *EPA,* 529 F.3d 1077 (DC Cir. 2008). In the proposal we neither re-evaluated nor re-opened the MACT standard for storage vessels under CAA sections 112(d)(2) and (3) in this action. For storage vessels, the revisions we proposed were as a result of the RTR under CAA sections 112(d)(6) and (f)(2). As also explained at proposal, under section 112(d)(6), the EPA is to review the ''emission standards promulgated under'' CAA section 112(d)(2) and (3). The EPA has consistently posited that CAA section 112(d)(6) focuses on the review of developments that have occurred in a source category since the original promulgation of a MACT standard. Similarly, the EPA is to conduct a risk review that evaluates whether the emission limits—the ''standards promulgated pursuant to subsection (d),'' [CAA section 112(f)(2)(A)]—should be made more stringent to reduce the risk posed after compliance with the underlying MACT standard. Therefore, the EPA does not have an obligation in its technology and

residual risk review to consider "hypothetical" facilities that is, facilities that have yet to begin construction (or may never even be constructed or operate) and where air emissions from ethylene production operations are merely anticipated because said operations do not yet exist and facilities have yet to start up. As also previously discussed we are not finalizing these proposed revisions under CAA section 112(d)(6) because they are not cost effective. In addition, the proposed revisions have little to no impact on HAP emissions for the source category. With respect to the role of cost in our decisions under the technology review, we note that the Court has not required the EPA to demonstrate that a technology is "cost-prohibitive" in order not to require adopting a new technology under CAA section 112(d)(6); a simple finding that a control is not cost effective is enough. See *Association of Battery Recyclers, et al.* v. *EPA, et al.,* 716 F.3d 667, 673–74 (D.C. Cir. 2015) (approving the EPA's consideration of cost as a factor in its CAA section 112(d)(6) decision-making and the EPA's reliance on cost effectiveness as a factor in its standard-setting).

The commenter's comparison of cost-per-ton estimates against other rules and other requirements within this final rule is also misplaced. The commenter draws a comparison to an analysis for metal HAP in the Secondary Lead NESHAP RTR, where those costs per ton were determined to be within the range of metal HAP values for other CAA section 112 rules (see 77 FR 576, January 5, 2012). However, organic HAP are the issue of concern for storage vessels, and the EPA has historically used a different and significantly lower cost-effectiveness scale for organic HAP versus metal HAP due to their relative toxicity. Generally, for organic HAP, we consider a cost effectiveness of $10,000/ton or more to be near the upper end of what the EPA has traditionally considered to be cost effective for control for these particular type of HAP.

In addition, we disagree with the commenter that consideration of incremental cost effectiveness was an unreasonable approach for comparing differing strategies that build upon one another. We note that CAA section 112(d)(6) does not prescribe a methodology for the agency's costs analysis, and the EPA has sometimes presented cost/ton-reduced numbers in the supporting analyses for regulations that we issue. See for example, *Husqvarna AB* v. *EPA,* 254 F. 3d 195 at 200 (D.C. Cir. 2001) ("Because section 213 does not mandate a specific method of cost analysis, we find reasonable the EPA's choice to consider costs on the per ton of emissions removed basis."). For storage vessels, we proposed to tighten the capacity and MTVP thresholds for control (known as option SV1 in our technology review memorandum) and also evaluated two other control options that built upon option SV1. Option SV1 was evaluated in concert with the two other options, including adding enhanced monitoring requirements (option SV2) and requiring EFR storage vessels to convert to IFR storage vessels via use of geodesic domes (option SV3). The costs are presented such that the overall HAP cost effectiveness for options SV2 and SV3 also include option SV1, while the incremental cost-effectiveness values for options SV2 and SV3 are the cost-effectiveness values only for requiring enhanced monitoring and only for requiring EFR storage vessels to convert to IFR storage vessels via use of geodesic domes, respectively. Simply put, the incremental cost-effectiveness values for options SV2 and SV3 do not include costs and emissions reductions for option SV1. The commenter did not provide additional details on costs or emissions reductions on these options; thus, we continue to believe these options are not cost-effective and are not finalizing them. An incremental cost-effectiveness analysis was not needed for equipment leaks or waste operations because we did not propose any revisions under our CAA section 112(d)(6) technology review for these emission sources. We also did not consider control options for these emission sources that would build upon each other and necessitate an evaluation of incremental costs and, thus, the HAP cost effectiveness for the options presented in those analyses are equivalent to the incremental cost-effectiveness values presented for options SV2 and SV3 for storage vessels. For further information on our technology review for storage vessels, see the technical memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Storage Vessels Located in the Ethylene Production Source Category,* which is available in Docket ID Item No. EPA–HQ–OAR–2017–0357–0014.

Lastly, we disagree with the commenter that it was unreasonable to consider an infrequently used storage vessel with a capacity of 58 m^3 (*i.e.,* a storage vessel with a capacity within the threshold of 38 m^3 and 59 m^3, which we evaluated, but did not propose) with little emissions and an extremely high cost-effectiveness value for control in setting the size threshold for control in our SV1 option evaluated under our CAA section 112(d)(6) review. As explained in the technology review memorandum, we first looked at other chemical sector and refinery NESHAP for storage vessel control thresholds for capacity and MTVP as a starting point and then we used our CAA section 114 ICR data to further refine option SV1. Based on our CAA section 114 data, only one storage vessel (with a capacity of 58 m^3) met the most stringent requirements for control from other NESHAP compared to the option we evaluated and would be impacted were we to evaluate this storage vessel in option SV1 (along with the other 12 storage vessels we anticipated would also be affected at proposal). Using the information from our CAA section 114 request that was submitted for this storage vessel (*e.g.,* size, number of tank turnovers, stored material composition), we conservatively estimated that this 58 m^3 storage vessel would only have annual emissions of 0.005 tpy of HAP if it had one full turnover (even though it reported having none in 2013). Considering the extreme case that all these emissions would be reduced from this storage vessel if it were required to be controlled, and if we made several other assumptions (*e.g.,* retrofit with an IFR, 12-foot diameter tank, one of each of the various upgraded deck fittings), we determined that controlling this one storage vessel would have an annualized cost of approximately $5,550 per year and not be cost effective (*i.e.,* over $1,000,000 per ton of HAP). We note that this information was available in the docket for commenters to use and provide their own estimates of HAP emissions and costs for control for this storage vessel. When considering this information, we find the option to tighten the capacity and MTVP thresholds to be even less cost effective if you consider impacts requiring control from the 58 m^3 storage vessel. Thus, as previously discussed, we are not finalizing the proposed capacity and MTVP thresholds we proposed for storage vessels and are keeping the current MACT level of control for storage vessels in place.

Comment: We received comments in support of and against the proposal to require use of the Modified El Paso Method for repairing leaks in heat exchange systems. A commenter that supported the proposal noted that at least eight facilities in the source category were already using the Modified El Paso Method. On the other hand, some commenters said the EPA's proposed control requirements for heat

exchange systems were not cost effective when considering the actual costs to repair leaks. A commenter said that the costs provided in Table 7 of the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Ethylene Production Source Category,* significantly underestimates the true cost associated with leak repair at ethylene production facilities. The commenter contended that for purposes of leak repair, after identifying a leak, maintenance and operations personnel must develop a strategy and schedule to remove the leaking exchanger from service, which involves identifying and selecting options for: Bypassing the process stream from the leaking system, the amount of production turndown necessary while the exchanger is out of service, identifying and selecting the appropriate contract personnel, and scheduling the work so that it does not conflict with any other planned maintenance. According to the commenter, several different personnel would be involved in these planning tasks including management, maintenance, production, and engineering staff (128 hour estimate is based on 32 hours × 4 persons). In addition to these planning costs, the commenter said that the EPA did not include costs for bypassing the leaking system to avoid a total shutdown which may include renting and plumbing temporary heat exchangers. The commenter also said that the EPA did not include costs for the rental and installation of cranes and scaffolding for accessing the heat exchanger for repairs, and costs for specialized contracted maintenance support to de-head the exchanger and perform the repair. Based on maintenance records, the commenter contended that repair costs range from $200,000 to $400,000 per event, not considering lost profit due to turndown or shutdown of the production unit. Factoring in these additional costs and using the EPA's estimated HAP emissions reductions of 25 tpy, the commenter said the revised cost effectiveness becomes $16,200 per ton of HAP. The commenter cited the RTR for Friction Materials Manufacturing Facilities (83 FR 19511, May 3, 2018) where the EPA found that $3,700 per ton for a permanent total enclosure was not cost effective, and the RTR for the Petroleum Refinery Sector (79 FR 36916, June 30, 2014) where the EPA found that $14,100 per ton for lowering leak definitions was not cost effective. The commenter also said that in cases where the leaking heat exchanger must be completely replaced to fix the leak, the costs exceed $1 million. The commenter stated that the EPA acknowledged in the preamble that emissions from heat exchange systems have an overall small contribution to cancer risk to the individual most exposed and that additional controls for heat exchange systems are not necessary to provide an ample margin of safety.

Response: We disagree with commenters that said the proposed requirements for heat exchange systems to use the Modified El Paso Method and a leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas are not cost-effective. We are finalizing this proposed development under CAA section 112(d)(6) with some minor technical clarifications that are discussed elsewhere in the rulemaking record (see our response in this preamble to commenters' requests to include an alternative mass-based leak definition; also see the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Ethylene Production,* which is available in Docket ID No. EPA–HQ–OAR–2017–0357). We note that the existing MACT standards that were finalized in 2002 (67 FR 46258, July 12, 2002) contained LDAR provisions and many of the items commenters include in their cost estimates are associated with repair costs that would have already been incurred under the existing MACT standards. These repair costs include, but are not limited to, planning, bypassing, various equipment rental costs, costs for scaffolding, and deheading. We also disagree with commenter's cost estimates because most of the items that they claim are associated with the proposed revision will not be required by this final rule requirement (*i.e.,* we determined that the costs associated with the difference between conducting leak sampling using water sampling methods and leak sampling using the Modified El Paso Method as well as costs associated with combined operator and maintenance labor to find and repair a leak by plugging are the only costs that would be additionally incurred by the technology review standards). Further, commenters failed to provide enough information demonstrating why their costs information represents leak repair costs for an average heat exchange system at an ethylene production facility. For example, facilities may have additional heat exchange system capacity available at their facility and may opt to use this capacity to repair the leak, at no additional expense, yet this was not considered by commenters. Also, commenters did not provide additional information for us to evaluate the percentage of time additional leaks would have to be fixed under the revised heat exchange system standards proposed under technology review compared to the original MACT standards. Thus, we continue to believe that the majority, if not all of the repair costs cited by commenters would have been accounted for and incurred as a result of the existing MACT standards and that simply plugging a leaking heat exchanger would more likely represent the average cost additionally incurred by ethylene production sources as a result of this technology review development. In addition, in the proposed rule we explained that we considered a heat exchanger to effectively be at the end of its useful life if it was leaking to such an extent that it would need to be replaced in order to comply with the requirement; so the cost of replacing the heat exchanger would be an operational cost that would be incurred by the facility as a result of routine maintenance and equipment replacement and not attributable to the proposed work practice standard that is being finalized in this action (see the technical memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems in the Ethylene Production Source Category,* which is available in Docket ID No. EPA–HQ–OAR–2017–0357). Thus, given all of this information, we continue to believe that those costs associated with the difference between conducting leak sampling using water sampling methods and leak sampling using the Modified El Paso Method as well as costs associated with combined operator and maintenance labor to find and repair a leak by plugging are the only costs that would be additionally incurred by the technology review standards. Based on our analysis, we find that the revised standards we proposed for heat exchange systems are cost effective at $1,060 per ton of HAP without consideration of product recovery and result in a cost savings when you consider product recovery. Therefore, we are finalizing the revisions for heat exchange systems that we proposed under CAA section 112(d)(6) with some minor technical clarifications that are discussed elsewhere in this preamble and in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Ethylene Production,* which is available in Docket ID No. EPA–HQ–OAR–2017–0357.

Additionally, with respect to rules where we have determined that

requirements are not cost effective at varying levels of cost effectiveness, we note that there can be other compelling factors beyond cost effectiveness that play a role in the EPA's determinations and that each rulemaking is unique and should be judged on its own merits. With respect to the two proposed rules commenters cited, we note that different determinations likely would have resulted if some of the other variables in those rulemaking records were not considered, such as for the Friction Materials RTR (83 FR 19511, May 3, 2018) where no facilities in the source category would have been impacted by rule revisions under the technology review due to process changes and use of non-HAP solvents. Similarly, for the Petroleum Refinery RTR (79 FR 36916, June 30, 2014), consideration of other fugitive emissions management techniques that were finalized (*e.g.,* fenceline monitoring) also had the potential to help control equipment leaks in the Petroleum Refinery source category. Regardless, and as stated above, we believe that the developments we identified for heat exchange systems used in the Ethylene Production source category are cost effective and are finalizing these revisions under CAA section 112(d)(6).

Comment: Some commenters recommended the EPA revise 40 CFR 63.1086(e)(i) through (iii) to include an alternative mass-based leak definition. Commenters argued that by only defining a leak on a concentration basis, smaller facilities with lower heat exchange system recirculation rates would be forced to identify and fix leaks with a much lower potential HAP emissions rate than facilities with larger recirculation systems.

A commenter said the EPA should calculate the equivalent mass-based emission rate using the 90th percentile heat exchange system recirculation rates (165,000 gpm) and the leak definition of 6.2 ppmv as methane in the stripping gas, assuming 100 percent of the hydrocarbon is hexane, for an equivalent mass leak-based leak definition of 6.1 pounds per hour (2.8 kilograms per hour) of Table 1 to 40 CFR part 63, subpart XX HAP.

Another commenter said the EPA should modify the leak action level to be defined as potential strippable hydrocarbon emissions greater than 4.0 pounds per hour for heat exchange systems with a recirculation flowrate less than or equal to 100,000 gpm. The commenter asserted that the memorandum, *CAA Section 112(d)(6) Technology Review for Heat Exchangers Located in the Ethylene Production Source Category,* mentions one case where the concentration of methane was 6.1 ppmv in the gas phase and just less than 80 parts per billion by weight (ppbw) in the water phase, thus, resulting in emissions of 0.64 pounds per hour based on a recirculation rate of 17,000 gpm. Using this information, the commenter determined that an average cooling water system with a recirculation rate of 100,000 gpm (the average cooling water recirculation rate of the ethylene production industry based on the responses the EPA received to the CAA section 114 ICR) and a concentration of strippable hydrocarbons in the water of 80 ppbw, will have potential strippable hydrocarbon emissions of 4 pounds per hour.

A commenter also recommended the EPA adjust the "delay of repair" leak action level in 40 CFR 63.1088(d)(3) to 40 pounds per hour of potential strippable hydrocarbon emissions for heat exchange systems with a recirculation rate of 100,000 gpm or less, and maintain the "delay of repair" action level at a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv (approximately 800 ppbw in the cooling water) for heat exchange systems with a recirculation rate greater than 100,000 gpm.

Response: We agree with commenters that an alternative mass-based leak action level is warranted, and that by not finalizing such an alternative, smaller heat exchange systems with low recirculation rates would be disproportionally affected and forced to repair leaks with a much lower potential HAP emissions rate than facilities with larger recirculation rate systems. We disagree with commenters, however, that the foundation of the alternative mass-based leak action level should be based on the average recirculation rate in the source category of 100,000 gpm or the 90th percentile heat exchange system recirculation rate of 165,000 gpm. As commenters allude to, the goal of this alternative is to not disproportionally impact small heat exchange systems with low emissions potential. To that end and given that this is a technology review under CAA section 112(d)(6), consideration of where it is cost-effective to repair a leaking heat exchange system should be a primary consideration for this alternative. In our technology review memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Ethylene Production Source Category,* at Docket ID Item No. EPA–HQ–OAR–2017–0357–0011, the nationwide impacts and emissions reductions presented in Tables 15 and 16 are used to determine the HAP cost effectiveness for the source category on average. In other words, the nationwide impacts for HAP cost effectiveness (without consideration of product recovery) at $1,060/ton of HAP would be the HAP cost effectiveness for an average heat exchange system in the source category that has a recirculation rate of approximately 100,000 gpm. We also generally consider that technology review developments are not cost effective for organic HAP if the cost effectiveness is more than $10,000/ton (or approximately 10 times higher than the cost effectiveness estimated for the average heat exchange system at ethylene production sources). Since the recirculation rate directly correlates to mass emissions potential at the same leak concentration, the mass emissions for a heat exchange system with recirculation rate of 10,000 gpm or less would be at least 10 times smaller compared to a 100,000 gpm recirculation rate system and the annual costs to find and repair leaks would not change. As such, we determined that it is not cost effective to control leaks at the leak action level of total strippable hydrocarbon of 6.2 ppmv (as methane) for heat exchange systems with a recirculation rate of 10,000 gpm or less, because the HAP cost effectiveness would be approximately $10,000/ton of HAP or more. Therefore, to alleviate the concern about disproportionally impacting small heat exchange systems with low HAP emissions potential, and to ensure our technology review developments are cost effective for all heat exchange systems in the source category, we are finalizing an alternative total hydrocarbon mass-based emissions rate leak action level (as methane) of 0.18 kilograms per hour (0.4 pounds per hour) for heat exchange systems in the Ethylene Production source category that have a recirculation rate of 10,000 gpm or less. We also agree that for consistency, and to not disproportionately impact small heat exchange systems, that an alternative mass-based leak action level of 1.8 kilograms per hour (4.0 pounds per hour) for delay of repair for heat exchange systems with a recirculation rate of 10,000 gpm or less is warranted.

4. What is the rationale for our final approach for the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the EMACT standards were originally promulgated on July 12, 2002 (67 FR 46258). Specifically, we

focused our technology review on all existing MACT standards for the various emission sources in the Ethylene Production source category, including, storage vessels, ethylene process vents, transfer racks, equipment leaks, waste streams, and heat exchange systems. In the proposal, we only identified cost-effective developments for storage vessels and heat exchange systems and proposed to tighten the standards for these two emissions sources under technology review. We did not identify developments in practices, processes, or control technologies for ethylene process vents, transfer racks, equipment leaks, and waste streams. Further rationale about the technology review can be found in the proposed rule (84 FR 54278, October 9, 2019) and in the supporting materials in the rulemaking docket at Docket ID No. EPA–HQ–OAR–2017–0357.

During the public comment period, we received several comments on our proposed determinations for the technology review. The comments and our specific responses and rationale for our final decisions can be found in section IV.B.3 of this preamble and in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action. No information presented by commenters has led us to change our proposed determination, under CAA section 112(d)(6) for ethylene process vents, transfer racks, equipment leaks, and waste streams, and we are finalizing our determination that no changes to these standards are warranted. Substantive information was submitted by commenters on proposed revisions for heat exchange systems, and based on this information, we are finalizing revisions for heat exchange systems and making some technical clarifications to allow compliance with an alternative mass-based leak action level for small heat exchange systems with a recirculation rate of 10,000 gpm or less in lieu of the concentration-based leak action level that was proposed. Lastly, for storage vessels, substantive information was also submitted by commenters, and based on this additional information, we find that the developments we proposed are not cost effective for this emissions source. Thus, we are not finalizing any changes for storage vessels as a result of the technology review.

C. Amendments Pursuant to CAA Section 112(d)(2) and (d)(3) for the Ethylene Production Source Category

1. What did we propose pursuant to CAA section 112(d)(2) and (3) for the Ethylene Production source category?

Under CAA section 112(d)(2) and (3) we proposed to amend the operating and monitoring requirements for flares used as APCDs in the Ethylene Production source category to ensure that facilities that use flares as APCDs meet the EMACT standards at all times when controlling HAP emissions. We proposed to add a provision, 40 CFR 63.1103(e)(4), to extend the application of the Petroleum Refinery Flare Rule requirements in 40 CFR part 63, subpart CC to flares in the Ethylene Production source category with clarifications, including, but not limited to, specifying that several definitions in 40 CFR part 63, subpart CC, that apply to petroleum refinery flares also apply to flares in the Ethylene Production source category, adding a definition and requirements for pressure-assisted multi-point flares, and specifying additional requirements when a gas chromatograph or mass spectrometer is used for compositional analysis. Specifically, we proposed to retain the General Provisions requirements of 40 CFR 63.11(b) and 40 CFR 60.18(b) that flares used as APCDs in the Ethylene Production source category operate pilot flame systems continuously and that flares operate with no visible emissions (except for periods not to exceed a total of 5 minutes during any 2 consecutive hours) when the flare vent gas flow rate is below the smokeless capacity of the flare. We also proposed to consolidate measures related to flare tip velocity and new operational and monitoring requirements related to the combustion zone gas. Further, in keeping with the elimination of the SSM exemption, we proposed a work practice standard related to the visible emissions and velocity limits during periods when the flare is operated above its smokeless capacity (*e.g.,* periods of emergency flaring). We proposed eliminating the cross-references to the General Provisions and instead to specify all operational and monitoring requirements that are intended to apply to flares used as APCDs in the Ethylene Production source category.

In addition, we proposed provisions and clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, and certain gaseous streams routed to a fuel gas system to ensure that CAA section 112 standards apply continuously, consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008). For PRD releases, we proposed at 40 CFR 63.1103(e)(2) definitions of "pressure relief device" and "relief valve" and proposed to add a work practice standard at 40 CFR 63.1107(h)(3), (6), and (7) for PRDs that vent to atmosphere that requires three prevention measures and root cause analysis and corrective action when a release occurs.[4] We proposed to require that sources monitor PRDs that vent to the atmosphere using a system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a pressure release has occurred. We also proposed to add a provision, 40 CFR 63.1107(h)(4), to require PRDs that vent through a closed vent system to a control device or to a process, fuel gas system, or drain system meet minimum requirements for the applicable control system. In addition, we proposed to add a provision, 40 CFR 63.1107(h)(5), to exclude the following types of PRDs from the work practice standard for PRDs that vent to the atmosphere: (1) PRDs with a design release pressure of less than 2.5 pounds per square inch gauge (psig); (2) PRDs in heavy liquid service; (3) PRDs that are designed solely to release due to liquid thermal expansion; and (4) pilot-operated and balanced bellows PRDs if the primary release valve associated with the PRD is vented through a control system. Finally, we proposed to add a provision, 40 CFR 63.1107(h)(8), to require future installation and operation of non-flowing pilot-operated PRDs at all affected sources.

For bypass lines on closed vent systems, we proposed to add a provision, 40 CFR 63.1103(e)(6), to not allow an owner or operator to bypass the APCD at any time, and if a bypass is used, then the owner or operator is to estimate and report the quantity of organic HAP released. We proposed this revision to be consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), where the Court determined that standards under CAA section 112(d) must provide for compliance at all times, because bypassing an APCD could result in a release of regulated organic HAP to the atmosphere. We also proposed that the use of a cap, blind flange, plug, or second valve on an

[4] Examples of prevention measures include flow indicators, level indicators, temperature indicators, pressure indicators, routine inspection and maintenance programs or operator training, inherently safer designs or safety instrumentation systems, deluge systems, and staged relief systems where the initial PRD discharges to a control system.

open-ended valve or line is sufficient to prevent a bypass. For in situ sampling systems, we proposed to delete the exclusion of ''in situ sampling systems (online analyzers)'' from the definition of ''ethylene process vent'' and require that these kinds of vents meet the standards applicable to ethylene process vents at all times.

For maintenance activities, we proposed a definition for ''periodically discharged'' and removed ''episodic or nonroutine releases'' from the list of vents not considered ethylene process vents. We proposed to add a work practice standard at 40 CFR 63.1103(e)(5) requiring that, prior to opening process equipment to the atmosphere, the equipment either: (1) Be drained and purged to a closed system so that the hydrocarbon content is less than or equal to 10 percent of the lower explosive limit (LEL); (2) be opened and vented to the atmosphere only if the 10-percent LEL cannot be demonstrated and the pressure is less than or equal to 5 psig, provided there is no active purging of the equipment to the atmosphere until the LEL criterion is met; (3) be opened when there is less than 50 pounds of VOC that may be emitted to the atmosphere; or (4) for installing or removing an equipment blind, depressurize the equipment to 2 psig or less and maintain pressure of the equipment where purge gas enters the equipment at or below 2 psig during the blind flange installation, provided none of the other proposed work practice standards can be met. For cases where an emission source is required to be controlled in the EMACT standards but is routed to a fuel gas system, we proposed to add footnote b to Table 7 of 40 CFR 63.1103(e) to require that any flare, utilizing fuel gas whereby the majority (*i.e.,* 50 percent or more) of the fuel gas in the fuel gas system is derived from an ethylene production unit, comply with the proposed flare operating and monitoring requirements.

We proposed to add work practice standards at 40 CFR 63.1103(e)(7) and (8) to address the decoking of ethylene cracking furnaces (*i.e.,* the coke combustion activities in an ethylene cracking furnace), which is defined as a shutdown activity and was previously only required to minimize emissions by following a startup, shutdown, malfunction plan. This ensures that CAA section 112 standards apply continuously. To minimize coke combustion emissions from the decoking of the radiant tube(s) in each ethylene cracking furnace, we proposed that an owner or operator must conduct daily inspections of the firebox burners and repair all burners that are impinging on the radiant tube(s) as soon as practical, but not later than 1 calendar day after the flame impingement is found. We also proposed that an owner or operator conduct two of the following activities: (1) Continuously monitor (or use a gas detection tube every hour to monitor) the CO_2 concentration at the radiant tube(s) outlet for indication that the coke combustion in the ethylene cracking furnace radiant tube(s) is complete; (2) continuously monitor the temperature at the radiant tube(s) outlet to ensure the coke combustion occurring inside the radiant tube(s) is not so aggressive (*i.e.,* too hot) that it damages either the radiant tube(s) or ethylene cracking furnace isolation valve(s); (3) after decoking, but before returning the ethylene cracking furnace back to normal operations, purge the radiant tube(s) with steam and verify that all air is removed; or (4) after decoking, but before returning the ethylene cracking furnace back to normal operations, apply a coating material to the interior of the radiant tube(s) to protect against coke formation inside the radiant tube during normal operation. In addition, we proposed that the owner or operator must conduct the following inspections for ethylene cracking furnace isolation valve(s): (1) Prior to decoking operation, inspect the applicable ethylene cracking furnace isolation valve(s) to confirm that the radiant tube(s) being decoked is completely isolated from the ethylene production process so that no emissions generated from decoking operations are sent to the ethylene production process; and (2) prior to returning the ethylene cracking furnace to normal operations after a decoking operation, inspect the applicable ethylene cracking furnace isolation valve(s) to confirm that the radiant tube(s) that was decoked is completely isolated from the decoking pot or furnace firebox such that no emissions are sent from the radiant tube(s) to the decoking pot or furnace firebox once the ethylene cracking furnace returns to normal operation.

More information concerning our proposal to address CAA section 112(d)(2) and (3) can be found in the proposed rule (84 FR 54278, October 9, 2019).

2. How did the revisions pursuant to CAA section 112(d)(2) and (3) change since proposal?

The EPA is finalizing the revisions to the monitoring and operational requirements for flares, as proposed, except that we are not finalizing the work practice standard for velocity exceedances for flares operating above their smokeless capacity. In response to comments that owners or operators have historically considered degassing emissions from shutdown of storage vessels to be covered by their SSM plans per 40 CFR 63.1108(a)(5) and relied on the language in 40 CFR 63.1108(a)(5) that back-up control devices are not required, we are adding a separate standard for storage vessel degassing for storage vessels subject to the control requirements in Table 7 to 40 CFR 63.1103(e)(3)(b) and (c). The standard requires owners or operators to control degassing emissions for floating roof and fixed roof storage vessels until the vapor space concentration is less than 10 percent of the LEL. Storage vessels may be vented to the atmosphere once the storage vessel degassing concentration threshold is met (*i.e.,* 10 percent LEL) and all standing liquid has been removed from the vessel to the extent practical.

Lastly, based on comments received on the proposal, we are making some minor editorial corrections and technical clarifications to the work practice standards for the decoking of ethylene cracking furnaces. Specifically, we are adding delay of repair provisions to the flame impingement inspection requirements, adding clarifying text to the CO_2 monitoring, coil outlet temperature monitoring, air removal, and radiant tube(s) treatment requirements, and removing unnecessary recordkeeping associated with the time each isolation valve inspection is performed and the results of that inspection even if poor isolation was not found. For details about these minor changes, refer to Section 6.7 of the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

3. What key comments did we receive on the proposal revisions pursuant to CAA section 112(d)(2) and (3), and what are our responses?

This section provides comment and responses for the key comments received regarding our proposed revisions for flares and clarifications for periods of SSM, including PRD releases, decoking operations for ethylene cracking furnaces (*i.e.,* the decoking of ethylene cracking furnace radiant tubes), and storage vessel emptying and degassing. Other comment summaries and the EPA's responses for additional issues raised regarding these activities as well as issues raised regarding our proposed revisions for bypass lines on closed vent systems, in situ sampling systems, maintenance activities, and certain gaseous streams routed to a fuel gas system, can be found in the

document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

Comment: We received comments in support of and against our proposal to establish similar requirements for flares used in the Ethylene Production source category as the flare requirements established in the 2015 Petroleum Refinery NESHAP, including the incorporation of the net heating value of the combustion zone (NHVcz) calculation and limits. One commenter supported the proposed strengthened operational and monitoring requirements, which the commenter stated reflect best practices already in place at many facilities and must be required pursuant to CAA sections 112(d)(2), (3), and (6). The commenter reiterated the EPA's determination that measuring the net heating value of the flare gas, as it enters the flares, is insufficient to determine combustibility because facilities add steam and other gases not accounted for and that flare performance data shows that the net heating value of vent gas in the combustion zone must reach at least 270 British thermal units per standard cubic foot (Btu/scf). Some commenters also supported the EPA's proposal "that owners or operators may use a corrected heat content of 1,212 Btu/scf for hydrogen, instead of 274 Btu/scf, to demonstrate compliance with the NHVcz operating limit," because the data show that the control efficiency of a flare drops off significantly below this level.

Another commenter also suggested other improvements to the proposed flared revisions. According to this commenter, data shows the proposed rule does not assure heating values in the combustion zone that are high enough to achieve the EMACT standards. The commenter said that the EPA has an extensive record to support its conclusion that some ethylene production facility flares do not destroy at least 98 percent of HAP, and urged the EPA to mandate additional measures to ensure 98-percent flare destruction efficiency. The commenter noted that at least one operator, Formosa, recognizes that flares can achieve 99-percent reduction in HAP emissions for small molecules.[5] The commenter stated that continuous monitoring of either the net heating value or composition of flare gas must be required pursuant to CAA sections 112(d)(2), (3), and (6). The commenter recommended that the EPA also consider the following measures to help assure compliance with 98-percent destruction efficiency:

- Prohibit wake dominated flow flaring conditions. The commenter noted that studies have shown that high winds can decrease flare destruction efficiency.[6]
- Require continuous video monitoring and recording for flares equipped with video monitoring and flares that vent more than 1 million standard cubic feet scf per day (MMscf/day).[7]
- Require monitoring of pilot gas, which is already required by the South Coast Air Quality Management District (SCAQMD) and Bay Area Air Quality Management District (BAAQMD).

The commenter also stated that the EPA should require that facilities conduct necessary flare maintenance and upgrades and have additional flare capacity on standby. The commenter stated that if a flare is smoking, that may mean it simply needs to be either maintained or updated to address the problem. The commenter recommended add-on equipment to augment the smokeless capacity of a flare.[8] The commenter also said that the EPA neither explained why other types of conveyances are not possible, nor can the EPA justify a standard that exempts equipment routed to a flare from the standards that generally apply to such equipment.

Response: We appreciate the support from several commenters for the flare operational and monitoring requirements being finalized at 40 CFR 63.1103(e)(4). However, we disagree with one commenter's request to mandate additional measures to ensure 98-percent flare combustion efficiency. The flare requirements we are finalizing are already designed to ensure flares meet a minimum destruction efficiency of 98 percent, consistent with the MACT control requirements.

We disagree with the commenter's specific request to prohibit wake dominated flow flaring conditions as we have extremely limited data to suggest that wind adversely impacts the combustion efficiency of flares, let alone the combustion efficiency of industrial-sized flares used at ethylene production units. Commenters submitted no new data to otherwise support the assertion that wind does indeed affect flare performance, and, as such, we are not persuaded into changing our position at proposal that no flare operating parameter(s) are needed to minimize wind effects on flare performance.

We disagree with the commenter's specific request to require continuous video monitoring and recording for flares equipped with video monitoring and flares that vent more than 1 MMscf/day. We note that in the final rule we have provided for the use of video camera surveillance monitoring as an alternative to EPA Method 22 monitoring. Observation via the video camera feed can be conducted readily throughout the day and will allow the operators of the flare to watch for visible emissions at the same time they are adjusting the flare operations.

We also disagree with the commenter's specific request to require monitoring of pilot gas. The data available to us suggests that heat release from the flare pilots are generally negligible when regulated materials are sent to the flare and exclusion of the flare pilot gas simplifies the NHVcz calculation. Even when only purge gas is used, the flare pilots typically only provided about 10 percent of the total heat input to the flare and typically well less than 1 percent in the recent passive fourier transform infrared spectrometry flare tests when potential regulated material is routed to the flare (this is dependent on the size of the flare, number of pilots, and flare tip design, which impacts minimum purge flows). We are finalizing the definition of flare vent gas as proposed, which excludes pilot gas.

Also, we disagree with the commenter's specific request to require additional flare capacity on standby to avoid a smoking flare because it would require new additional flares to operate at idle conditions for the vast majority

[5] The commenter provided the following reference: RISE St. James et al. Comments on 14 Proposed Initial Title V/Part 70 Air Permits, Proposed Initial Prevention of Significant Deterioration Permit, and the Associated Environmental Assessment Statement for FG LA, LLC (Formosa) Chemical Complex, Attachment E at 18 (August 12, 2019).

[6] The commenter provided the following reference: Robert E. Levy et al., Indus. Prof. for Clean Air, Reducing Emissions from Plant Flares (No. 61) at 1 (April 24, 2006).

[7] The commenter provided the following reference: See 84 FR 54296; BAAQMD § 12–11–507: requiring continuous video monitoring and recording for flares equipped with video monitoring and flares with vent gas more than 1 MMscf/day); SCAQMD Rule 1118(g)(7): requiring continuous video monitoring and recording; Consent Decree, *United States of America* v. *Marathon Petroleum Company LP et al.,* No. 12–cv–11544 (E.D. Mich.) (April 5, 2012); Consent Decree, *United States of America et al.* v. *BP Products North America Inc.,* No. 12–cv–0207 (N.D. Ind.) (May 23, 2012); Consent Decree, *United States of America* v. *Shell Oil Company et al.,* No. 13–cv–2009 (S.D. Tex.) (July 10, 2013); Consent Decree, *United States of America* v. *Flint Hills Resources Port Arthur, LLC,* No. 14–cv–0169, at 12 (E.D. Tex.) (March 20, 2014).

[8] The commenter provided the following reference: John Zink Hamworthy, Smokeless, Safe, Economical Solutions: Refining & Petrochemical Flares. Pg. 4 (this technology can increase the smokeless capacity of a flare by nearly 38 percent), available at *http://www.johnzink.com/wp-content/uploads/Flares-Refining-Petrochemical.pdf.*

of time, contributing to additional criteria pollutant emissions on a continuous basis, while having only a small impact on HAP emissions. For example, an existing flare burns approximately 25,000 to 100,000 standard cubic feet per day of natural gas (or fuel gas). If three new flares are added for each existing flare to ensure flares do not smoke during emergency shutdowns or other similar major events, then the additional emissions per existing flare would be 1,000 to 4,100 megagrams per year of CO_2 equivalence and 0.9 to 3.6 tpy of nitrogen oxides. This estimate does not include emissions from the generation of the extra steam needed for these flares to operate in a smokeless manner during the emission events. Therefore, the secondary impacts associated with having greater smokeless flare capacity would be significant. In addition, it is not clear whether the specific technology that the commenter cited to augment the smokeless capacity of a flare (*i.e.,* a specific steam-assisted flare system that uses multiple-port supersonic nozzle technology) is an ''add-on'' technology, nor did the commenter provide any data to quantify or substantiate the claims, or any other additional details on costs or emissions reductions for it.

Finally, the commenter did not provide any context regarding their comment about other types of conveyances and justifying standards; therefore, we are unable to respond to this portion of the comment.

Comment: A commenter stated that the EPA improperly based the proposed flare revisions on CAA sections 112(d)(2) and (3) and should have evaluated them under CAA section 112(d)(6). The commenter stated that in setting the original MACT, the EPA did not have actual data demonstrating that the best performers were achieving 98-percent HAP reduction with flares (and other combustion devices), but rather based its conclusions on what it presumed sources would achieve if a combustion device were operated consistent with the requirements in the rule. The commenter further stated that the EPA is now claiming that 98-percent HAP reduction was not achieved in practice by the best performers, and instead can only be achieved by the best performers if they take additional steps to reduce emissions (*e.g.,* meet NHVcz requirements and implement additional monitoring). The commenter contended the proposed flare revisions can only be either a BTF standard or a revision as a result of the technology review, and the EPA cannot make the standard more stringent simply by claiming it is ensuring compliance with the current standard.

The commenter argued the EPA should have evaluated the flare revisions under CAA section 112 (d)(6), found the revisions were not cost effective, and not proposed the flare revisions. To support the commenter's contention that the proposed flare requirements would not be cost effective, the commenter provided updated estimates for the costs presented in Tables 3, 6, and 7 of the EPA memorandum, *Control Option Impacts for Flares Located in the Ethylene Production Source Category.* The commenter made the following statements regarding costs:

- The EPA did not consider the cost of constructing new flares at existing facilities to meet the proposed requirements. The commenter stated that they know that at least one company would be required under the proposed rule to install at least two new flares, due to the high potential for existing flares to exceed the number of visible emissions events allowed, with a capital cost of $20 million and annualized costs of $3.1 million.
- Gas chromatographs would need to be installed in certain instances to comply with the proposed monitoring requirements, which the commenter suggests would have an estimated nationwide capital investment of $964,000 and annualized costs of $140,000 for installation and operation.
- The EPA did not account for the costs associated with upgrading natural gas controls and flow monitoring; the commenter estimated approximately 47 flares will require upgraded supplemental fuel controls and monitoring equating to a nationwide capital investment of $5.3 million and an annualized cost of approximately $1 million.
- The EPA did not account for supplemental natural gas firing to meet the revised NHVcz operating parameter, which the commenter estimates would cost approximately $66.8 million per year in additional operating costs.
- The EPA underestimated the costs to develop the flare management plan by inappropriately relying on the cost estimated for refineries. However, most refineries were subject to similar flare management plan requirements under 40 CFR part 60, subpart Ja, and, therefore, were only required to update existing plans, whereas the commenter said ethylene producers will generally be required to develop new flare management plans. The commenter estimated the cost to develop a new flare management plan is $23,300 per flare.
- The EPA did not include the cost to develop the continuous parametric monitoring system monitoring plan required by 40 CFR 63.671(b), which they estimate is an additional $7,400 per flare to develop.

Using their updated costs and the EPA's estimated 1,430 tpy of HAP reductions, the commenter stated that the cost effectiveness of the proposed flare requirements would be $55,874 per ton of HAP reduced. The commenter argued that the EPA would have found the proposed flare revisions not cost effective under CAA section 112(d)(6) and, therefore, would not have included the changes in the proposed rule.

Another commenter stated there would be complications complying with the proposed flare revisions, which would further increase the cost of the proposal, including: (1) When gas chromatographs are currently in use, some flares will need to add calorimeters to directly measure the net heating value on a minute-by-minute basis to help with process control and meet the requirements on a 15-minute basis; (2) some flares have multiple vent gas lines entering the flare system (*e.g.,* a line to the base of the flare and a line entering the side of the flare stack) and additional vent gas monitors will be needed; (3) some flares have two or more steam lines to the flare tip and additional steam flow monitors will be needed; and (4) some flares will need to install larger volume supplemental fuel lines, triggering the need for permitting and construction of these systems.

Response: We disagree with the commenter that the flare revisions should have been evaluated and proposed under CAA section 112(d)(6). As explained at proposal, we are not revising the MACT standards, which generally require 98-percent control efficiency and allow an owner or operator to choose the control device to meet the standard. Rather, we determined the flare operating and monitoring requirements were not adequate to ensure that 98-percent control efficiency can be met for a flare at all times. (84 FR 54294). As a general matter, available flare test data indicates that flares can achieve 99.9-percent control at certain times, and we believe that the long term nationwide average control efficiency achieved by flares meeting the final rule requirements could be over 98-percent control efficiency. In fact, in the development of the EMACT standards, the EPA stated that ''It is generally accepted that combustion devices achieve a 98 weight-percent reduction in HAP emissions . . .'' (65 FR 76428, December 6, 2000). However, in this

rulemaking, we are acknowledging that there are instances, particularly when either assist steam or assist air is used, where flare performance is degraded, and this level of control is not achieved at all times. Since the revisions ensure continuous compliance with the MACT standards, under CAA sections 112(d)(2) and (3), costs are not a factor considered for these revisions. *NRDC* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008) ("EPA may not consider costs in setting the maximum achievable control technology 'floors,' but only in determining whether to require 'beyond the floor' reductions in emissions."); *NRDC* v. *EPA,* 489 F.3d 1364, 1376 (D.C. Cir. 2007 ("[C]ost is not a factor that EPA may permissibly consider in setting a MACT floor."); see also, *Nat'l Lime Ass'n* v. *EPA,* 233 F.3d 625, 640 (D.C. Cir.2000)). At proposal, we acknowledged that some additional instrumentation and supplemental fuel may be needed for some flares and included cost estimates for these items. In addition, as previously explained, the EPA has no obligation to review prior MACT determinations and recalculate MACT floors as part of each CAA section112(d)(6) review. See, *e.g., Nat'l Ass'n of Surface Finishing* v. *EPA,* 795 F.3d 1 (D.C. Cir. 2015); *Association of Battery Recyclers* v. *EPA,* 716 F.3d 667, 673 (D.C. Cir. 2013), *NRDC* v. *EPA,* 529 F.3d 1077(D.C. Cir. 2008).

Contrary to the commenter's assertions, we did estimate costs in order to provide the resulting impacts of the proposed flare requirements, and we are not revising these costs as a result of this comment. The largest impact on annual costs is associated with supplemental natural gas to meet the NHVcz limit, which the commenter estimated is approximately 18 times higher than our estimate ($66.8 million from the commenter versus $3.7 million for the EPA). We find the commenter's cost estimate unreasonable, and that commenters notably did not account for adjusting other flare parameters instead of using such a large amount of natural gas. We are also unable to re-create and establish how the estimated costs were developed by commenters due to a lack of information pertaining to baseline flare flows, waste gas compositions, current supplemental natural gas flows and steam flows. The commenter also stated that we did not include costs for flow monitors and controls, but these were specific items we included at proposal (see Table 3 in the memorandum, *Control Option Impacts for Flares Located in the Ethylene Production Source Category*), and the EPA's cost estimate for these items is higher than the commenter's cost estimate.

Comment: We received comments in support of and against the proposed work practice requirements for visible emissions and flare tip velocity. A commenter contended that the inherent nature of the ethylene production process (*i.e.,* ethylene production requires a significant amount of compression and refrigeration) necessitates the proposed flare work practice requirements to an even greater extent than the refinery sector. According to the commenter, in an upset situation such as a power outage or equipment malfunction, the compression and refrigeration systems can be lost resulting in a rapidly expanding volume of gas that must be removed from the process equipment to prevent potential damage and minimize safety risks.

Several commenters objected to the EPA's proposed emergency flaring provisions for smoking flares. Some commenters stated that the proposed number of visible emissions exceedance events allowed is not supported by data the EPA received in response to the CAA section 114 ICR. A commenter said that the information the EPA used indicates that there were zero velocity exceedances during any smoking; however, 40 CFR 63.670(o) implies that the flare must be operating above its smokeless capacity in order to smoke. The commenter said that unless the EPA has data indicating that these flares were exceeding their smokeless capacity (*i.e.,* there was a tip velocity exceedance) at the time of the smoking event, the database that the EPA used does not support its claims on the frequency of these events at the best performing flares and the proposed deviation definitions at 40 CFR 63.670(o)(7)(ii) and (iv) are arbitrary and capricious. Similarly, a commenter noted that the EPA "assumed . . . that the best performers would have no more than one [visible emissions] event every 7 years" based on industry survey data provided by the American Chemistry Council (ACC), which the commenter noted fails to provide date ranges for the data presented, or to identify the location of the facilities. The commenter also noted that the survey identifies zero exceedances of the flare tip velocity from any facility, and the average presented by industry is provided without any context. The commenter warned that without access to more detailed underlying data it is impossible to determine if the ACC data includes smoking events that occurred at flares when the flow rate to the flare was also below the smokeless capacity of the flare. The commenter urged that smoking events that occur when the smokeless capacity of a flare is not exceeded should not be included in determining the average frequency of hydraulic load smoking events at flares.

A commenter also stated that the information the ACC provided to the EPA showing visible emissions events and velocity exceedances (see Appendix B of Docket ID Item No. EPA–HQ–OAR–2017–0357–0017) identifies two flares as material handling flares and one flare as a process wastewater flare while all other flares are not characterized in any way. The commenter said that the inconsistent characterization of the flares raises questions about the nature of the flares used to support the EPA's claims on the frequency of these events at the best performing flares.

In addition, the commenter reiterated that the proposed revisions for releases from smoking flares do not satisfy CAA section 112(d)(2) or (3). The commenter said the EPA did not provide rationale, and did not meet, the statutory test for smoking flares. The commenter also said the EPA did not provide a reasonable analysis or determination showing that allowing one to two uncontrolled such events every 3 calendar years (plus *force majeure* event releases) reflects the average of the best performers' reductions and is the "maximum achievable degree of emission reduction." The commenter urged that what is "achievable for the average" is not the statutory test. The commenter expressed the view that it is unclear how a smoking flare could ever meet CAA sections 112(d)(2) and (3).

The commenter recommended the EPA consider the data it collected on flares to determine the amount of HAP emitted. The commenter stated that the EPA has not explained why its own data on emission exceedances from equipment connected to flares would not allow it to set limits on smoking flares, and that the EPA has not and could not show, based on the record that the complete exemption for one to two smoking flare incidents at each flare, every 3 years, in any way satisfies CAA section 112(d)(3). The commenter stated that the EPA's failure to review actual data is especially egregious given the fact that the Texas Commission on Environmental Quality (TCEQ), the BAAQMD, and the SCAQMD have extensive data on the frequency that operators report smoking emissions from flares,[9] and given that the

[9] The commenter provided the following reference: This data is available on TCEQ Emission Event Reporting website (*http://*

Continued

smokeless capacity of the flare is an easily ascertainable characteristic. The commenter argued that using this data, the EPA could have potentially determined a MACT floor that complies with the requirements of the CAA.

The commenter also warned that the EPA does not meet the BTF requirements in CAA section 112(d)(2). The commenter stressed that the EPA has not demonstrated that allowing multiple smoking flare exemptions from the standards is the "maximum achievable degree of emission reduction" from those flares. The commenter argued that, at the very least, the EPA must set standards on the duration and amount of gas that is routed to a flare during a malfunction event that causes the flare to operate above its smokeless capacity, in addition to the cap on the number of exemptions included in the proposed rule. The commenter stated that the HAP emission limits for flares during malfunctions cannot be less stringent than the emission limits that apply during normal operations.

The commenter stated that, based on data from TCEQ, smoking flare events can last several minutes or multiple days, and the EPA's proposed regulations do not make clear whether this should be considered a single event or multiple smoking events. The commenter additionally noted that the EPA's proposed regulation does not make clear whether visible smoke emissions that are caused by multiple root causes occurring at the same time should count as one visible emission event or two.

Response: First, as explained at proposal flares are used as APCDs to control HAP emissions in both the Petroleum Refinery and Ethylene Production source categories. It is therefore not a specific emission source within the EMACT standards and, thus, we did not seek to establish a MACT floor for flares at the time that we promulgated the EMACT standards in the GMACT NESHAP. Rather, we identified flares as an acceptable means for meeting otherwise applicable requirements and we established flare operational standards that we believed would achieve a 98-percent destruction efficiency on a continual basis. As previously explained, recognizing that flares were not achieving the 98-percent reduction efficiency in practice at all times, we proposed additional requirements in the October 9, 2019, proposed rule (84 FR 54294) to ensure that flares operate as intended at the time we promulgated the EMACT standards. This is entirely consistent with agency practice of fixing underlying defects in existing MACT standards under CAA sections 112(d)(2) and (3), provisions that directly govern the initial promulgation of MACT standards. (See, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries, October 28, 2009, 74 FR 55670; and National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins; Marine Tank Vessel Loading Operations; Pharmaceuticals Production; and the Printing and Publishing Industry, April 21, 2011, 76 FR 22566)).

Regarding the operational standards for flares operating above the smokeless capacity, we note that these flare emissions are due to a sudden increase in waste gas entering the flare, typically resulting from a malfunction or an emergency shutdown at one or more pieces of equipment that vents emissions to the flare. The EPA disagrees with commenter's suggestion that standards are warranted for the duration and amount of gas discharged to a flare during malfunction events, which are infrequent, unpredictable and not under the control of an operator. Flares are associated with a wide variety of process equipment and the emissions routed to a flare during a malfunction can vary widely based on the cause of the malfunction and the type of associated equipment. Thus, it is not feasible to establish a one-size-fits-all standard on the amount of gas allowed to be routed to flares during a malfunction. Moreover, we note that routing emissions to the flare will result in less pollution than the alternative, which would be to emit directly to the atmosphere. We note that we do not set similar limits for thermal oxidizers, baghouses, or other control devices that we desire to remain operational during malfunction events to limit pollutant emissions to the extent practicable. However, we did propose work practice standards that we believed would be effective in reducing the size and duration of flaring events that exceed the smokeless capacity of the flare to improve overall flare performance. On that premise, we acknowledge that the data we received from ACC's survey identifies zero exceedances of the flare tip velocity during a smoking event; and we agree with the commenter that our proposed determination of the frequency of these events at the best performing sources is not supported. Therefore, in response to comments on our proposal, we are not finalizing the proposed work practice standard for when the flare vent gas flow rate exceeds the smokeless capacity of the flare and the tip velocity exceeds the maximum flare tip velocity operating limit. Instead, we are finalizing provisions that require compliance with the maximum flare tip velocity operating limit at all times, regardless of whether you are operating above the smokeless capacity of the flare.

In order to ensure 98-percent destruction of HAP discharged to the flare (as contemplated at the time the EMACT standards were promulgated) during both normal operating conditions when the flare is used solely as a control device and malfunction releases where the flare acts both as a safety device and a control device, we are finalizing, as proposed, the work practice standard for when the flare vent gas flow rate exceeds the smokeless capacity of the flare and visible emissions are present from the flare for more than 5 minutes during any 2 consecutive hours during the release event. As described in more detail in our technical memorandum, *Control Option Impacts for Flares Located in the Ethylene Production Source Category,* located at Docket ID Item No. EPA–HQ–OAR–2017–0357–0017, the best performing flare in the Ethylene Production source category for which we have information on visible emissions has a visible emissions event once every 7 years. Even if the best-performing flare "typically" only has one event every 7 years, the fact that visible emissions events are random by nature (unpredictable, not under the direct control of the owner or operator) makes it difficult to use a short term time span to evaluate a backstop to ensure an effective work practice standard. Thus, when one considers a longer term time span of 20 years, our analysis shows that three events in 3 years would appear to be "achievable" for the average of the best performing flares. We disagree with commenters that we should allow more or fewer visible emissions events above the smokeless capacity of a flare. We also disagree with commenters that the regulatory text we are cross-referencing at 40 CFR 63.670(o) is unclear about what constitutes an event or how to handle multiple root causes, especially since there is generally only a singular root cause at the heart of a visible emissions event.

With respect to the comment about conducting a BTF analysis under CAA section 112(d)(2), we note the work practice combustion efficiency standards (specifically limits on the net heating value in combustion zone)

www.tceq.texas.gov/field/eventreporting) and is also available in Excel format from the state agency.

apply at all times, including during periods of emergency flaring. Because flares are not an affected emissions source, but rather an APCD, no BTF analysis is needed. While requiring the use of systems such as back-up power or adding additional flares for additional flare capacity might alleviate additional visible emission events, we note that facilities would have to invest significant capital to build a back-up cogeneration power plant or add additional flare capacity for flares to operate on standby to handle very infrequent events we are limiting in this final rule. Combined with the costs, significant additional emissions would also be generated from a cogeneration power plant or from a flare operating in standby to handle infrequent smoking events and this would lead to a net environmental disbenefit and is contradictory to the commenter's own concerns about limiting emissions from flares since owners or operators of ethylene production facilities would have to construct more of them.

Comment: A commenter noted that CAA section 112(h) allows the EPA to set a "work practice standard" in lieu of a numerical emission standard only if it is "not feasible to prescribe or enforce an emission standard." Further, the commenter noted, even when the EPA sets a work practice standard, such a standard must still be consistent with CAA sections 112(d)(2) and (3). The commenter rejected the EPA's rationale for the CAA section 112(h) determination in the proposal that "application of a measurement methodology for PRDs that vent to atmosphere is not practicable due to technological and economic limitations." The commenter stated that the EPA's statement is false, and that the EPA's proposed reporting and recordkeeping requirements would mandate facilities "calculate the quantity of organic HAP released during each pressure release event." According to the commenter, a 2007 SCAQMD report found that "new (wireless) technology allows for continuous monitoring of PRDs without significant capital expense and makes it easy for operators to identify valve leaks . . . VOCs that are emitted from PRDs may be accurately identified, estimated, remedied, and reported immediately." [10] The commenter stated this monitoring technology is already in use at refineries in the United States,[11] and noted that SCAQMD required refineries to install wireless monitoring on 20 percent of the PRDs at their facilities since 2003 and on all PRDs since 2009.[12] The commenter noted that the EPA also relied on TCEQ data from seven ethylene production facilities that reported the quantity of HAP emissions released during specific PRD release events. For these reasons, the commenter argued that it is possible to measure PRD emissions, and they actually have been measured. The commenter stated that the EPA has not shown and cannot show why, in view of existing data on the amount, duration, and types of PRD releases, it cannot set a limit on these releases. The commenter further asserted that PRD releases may be captured and controlled; therefore, the EPA cannot use a work practice standard under CAA sections 112(h)(1) and (2)(A) to justify failing to set an appropriate numerical emission standard for them.

A commenter further objected to the proposed work practice standards because, they asserted, the EPA proposed the standards in part on the basis that the cost of measuring emissions is too high. The commenter stated that the EPA must set a MACT floor without consideration of cost, and that the cost is reasonable if 12 percent of existing sources met the limitation. The commenter argued that although the EPA stated that it would be economically prohibitive to construct an appropriate conveyance and install and operate continuous monitoring systems for each individual PRD that vents to atmosphere, the EPA fails to provide the estimated cost for construction and installation of such monitoring systems. The commenter argued that any such calculation would need to consider the impact of the EPA and state imposed flaring reduction programs, and the social and economic cost of the excess emissions from PRD emissions, including costs associated with the disruption in communities that are subject to "shelter in place" programs because of episodic releases from facilities.

Response: We disagree with the commenter's assessment and maintain the rationale provided in the proposal preamble (84 FR 54302, October 9, 2019), where we specifically discussed the issue related to constructing a conveyance and quantitatively measuring PRD releases and concluded that these measures were not practicable and that a work practice standard was appropriate. Owners or operators can estimate the quantity of HAP emissions released during a PRD release event based on vessel operating conditions (temperature and pressure) and vessel contents when a release occurs, but these estimates do not constitute a measurement of emissions or emission rate within the meaning of CAA section 112(h). The monitoring technology suggested by the commenter is adequate for identifying PRD releases and is one of the acceptable methods that facility owners or operators may use to comply with the continuous monitoring requirement. However, we disagree that it is adequate for accurately measuring emissions for purposes of determining compliance with a numeric emission standard. The technology cited by the commenter is a wireless monitor that provides an indication that a PRD release has occurred, but it does not provide information on either release quantity or composition. PRD release events are characterized by short, high pressure, non-steady state conditions that make such releases difficult to quantitatively measure. As such, we maintain our position that the application of a work practice standard is appropriate for PRDs.

Comment: We received comments in support of and against the proposed work practice standards for PRDs. Specific comments against the proposal related to whether they apply at all times.

A commenter stated that even assuming *arguendo* that the EPA could set a work practice standard for PRDs and that it otherwise had satisfied CAA sections 112(h) and (d), its action is unlawful because there would be no restriction that applies continuously as

[10] The commenter provided the following reference: SCAQMD, Rule 1173, *Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants* (amended February 6 2009), *http://www.arb.ca.gov/DRDB/SC/CURHTML/R1173.PDF*, EPA–HQ–OAR–2010–0682–0761; SCAQMD, Final Staff Report for Proposed Amended Rule 1173—*Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants* at 3–2 (May 15, 2007), Docket ID Item No. EPA–HQ–OAR–2010–0869–0024.

[11] The commenter provided the following reference: Rosemount Wireless Instrumentation, Refinery Improves Environmental Compliance and Reduces Costs with Wireless Instruments (2007) ("the result has been . . . true time and rate calculations for brief emissions"), *http://www2.emersonprocess.com/siteadmincenter/PM%20Rosemount%20Documents/00830-0100-4420.pdf;* see also *Adaptive Wireless Solutions, Continuous Valve Monitoring for Product Loss Prevention, Emission Reduction and ROI* at 2, *http://www.chemicalprocessing.com/assets/Media/MediaManager/Continuous_Monitoring_for_ROI.pdf;* Meeting Record for August 4, 2015, Representatives of Emerson Process Management and Representatives of Office of Air Quality Planning and Standards (U.S. EPA), Docket ID Item No. EPA–HQ–OAR–2010–0682–0743 (meeting regarding PRD monitoring tools and technologies).

[12] The commenter provided the following reference: SCAQMD, Staff Report at ES–2, 2–3 to 2–5, Docket ID Item No. EPA–HQ–OAR–2010–0869–0024.

the CAA directs.[13] The commenters stated that the proposed rule would permit an uncontrolled amount of HAP to be released by a PRD repeatedly, when it is opened at the facility's sole discretion. A commenter stated this means that once or twice every 3 years and whenever there is a *force majeure* event, any amount of HAP that may come from these devices could be released, and would not be a violation, no matter the original source of emissions.

A commenter argued that the fact that the EPA required three non-defined steps (including monitoring mechanisms, such as flow indicators, routine inspection and maintenance, and operator training) to be taken to try to prevent such releases does not mean that there is a continuous CAA section 112-compliant emission standard that applies. The commenter stated that none of these steps would restrict pollution released during PRD openings, would make the PRD malfunction exemptions lawful, or would turn them into a standard instead of an exemption. The commenter noted that although there are some potential controls listed as work practice requirements that a facility may choose to implement (*e.g.,* ''deluge systems'' and ''staged relief systems where the initial PRD discharges to a control system''), the proposed rule does not require any facility to either install them or any other controls or limits on PRDs. The commenter stated this should be required pursuant to the MACT floor, as the best performing PRDs are controlled, and the best performing process units are not equipped with any PRDs that are capable of venting emissions directly to the atmosphere.

The commenter stated that because analyses, reports, and potential corrective action steps would be required after such releases occur, that does not mean that the EPA has implemented a continuous emission standard. The commenter also stated that uncontrolled releases are not considered a violation, and there is no civil penalty for the HAP emitted during the allowable PRD releases. Under the proposed rule, the commenter argued, no matter how many corrective actions a facility may take afterward, the release would still be an authorized release, allowing an unlimited amount of toxic air pollution to be emitted into the air from facility equipment albeit through a PRD. The commenter said that post-hoc measures may help discover why a release happened, and might even help to prevent release, but these measures are not considered controls or limits on the pollution that was released. The commenter stated that the EPA additionally failed to propose any regulatory requirement to end PRD releases as soon as it is discovered.

Another commenter agreed that the EPA has the authority and obligation to adopt work practice standards under the *Sierra Club* SSM decision. The commenter reiterated the *Sierra Club* decision and said the EPA must ensure that some ''emission standard'' applies at all times—except that the standard that applies during normal operation need not be the same standard for SSM periods. The commenter said the requirement for ''continuous'' standards means only that a facility may not install control equipment and then turn it off when atmospheric conditions are good; and it does not mean that work practice standards must physically restrict emissions from all equipment at all times. The commenter said that the EPA has consistently imposed as ''MACT'' standards a variety of work practice obligations that do not prohibit or limit emissions to a specified level at all times, but rather are designed to limit overall emissions from various processes over the course of a year. The commenter said the EPA's own LDAR programs illustrate this distinction. The commenter contended that no court has suggested that periods of ''unlimited emissions'' [*e.g.,* 40 CFR 63.119(b)(1) (internal floating roof allowed not to contact with stored material during filling/emptying); 40 CFR 63.119(b)(6) (covers on tank openings may be opened when needed for access to contents); 40 CFR 63.135(c)(2) (allowing openings on containers as necessary to prevent physical damage)] render these requirements insufficient under CAA section 112. Rather, the work practice standards associated with these requirements—*e.g.,* maintaining openings in a closed position except as necessary for access; conducting filling/emptying as rapidly as possible—are considered to be acceptable mechanisms to minimize overall emissions from these types of equipment, even when they do not limit emissions at all during a few brief periods that are necessary for operational or safety reasons.

Response: We disagree with the underlying premise of the first commenter that any PRD release should be deemed a violation of section 112 and must be directly enforceable. As we have explained, we believe that a work practice standard, rather than a numerical limit applicable to each PRD release is appropriate. To the extent the commenter is claiming that a standard does not apply at all times, we also disagree. Although there is not a numerical limit that each PRD must meet at all times, we have established a work practice standard that does apply at all times. The work practice standard for PRDs requires operators to adopt prevention measures to minimize the likelihood of PRD release events, and the installation and operation of continuous monitoring device(s) to identify when a PRD release has occurred. These measures must be complied with at all times, and thus the work practice standard does apply at all times. (See for example, *Mexichem Specialty Resins, Inc.* v. *EPA,* 787 F.3d 544, 560 (D.C. Cir. 2015) (''The regulations anticipate that regulated entities will be allowed to open bypasses during maintenance as long as they comply with the opening provisions set forth therein.''). Additionally, having a backstop on the number of PRD releases allowed and requiring root cause analysis and corrective action analysis will ensure PRD releases are further minimized. We also note that we have always (since the rule was initially promulgated) had requirements in our equipment leaks regulations at 40 CFR 63.1030(c) for the Ethylene Source category that ensure a PRD has properly reseated after a release. We agree with the second commenter that there are a variety of work practice standards the EPA has adopted in its section 112 regulations that operate similar to the PRD requirements in that they do not prohibit emissions from equipment at all times or otherwise establish numeric limits for emissions from those pieces of equipment.

Comment: Commenters stated that the EPA cannot use CAA section 112(h) to allow unlimited HAP releases from PRDs because the authorizations for uncontrolled PRD releases are back-door exemptions from the other underlying standards regulating ethylene production facilities. For uncontrolled PRD releases, the commenter asserted that the EPA did not and could not reasonably explain how it is lawful to authorize completely uncontrolled emissions under CAA section 112(h). The commenter noted that the Court previously upheld a decision not to create a malfunction or ''excursion'' provision.[14]

The commenter argued that historically there has been no limit on

[13] The commenter provided the following reference: *Sierra Club,* 551 F.3d at 1028; CAA section 304(k).

[14] The commenter provided the following reference: *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057 (D.C. Cir. 1978) (citing *Am. Petrol. Inst.* v. *EPA,* 540 F.2d 1023, 1036 (10th Cir. 1976) (denying excursions)).

emissions when a PRD acts like a process vent, and that the EPA's purpose in conducting this rulemaking was, in part, to remove these unlawful exemptions as compelled by law. The commenter warns that the EPA's proposed rule reinstates new versions of precisely the same sort of exemptions, by allowing at least one, and in some instances two ''free passes'' to emit uncontrolled pollution every 3-year period for each PRD. The commenter further remarked that exempting such emissions from the definition of violation negates the meaning of ''emission standard,'' and shows that no standard applies to these releases.

The commenter stated that the EPA cannot create any exemption from or weakening of EMACT equipment standards simply because excess emissions from equipment are routed through a PRD. The commenter argued that doing so unlawfully weakens the original CAA section 112(d) standards for the linked equipment, without any reasoned explanation or support for doing so. Further, the commenter stated that because the EPA proposes that no emission standard applies during the uncontrolled releases, the exemptions violate CAA sections 112(d) and 302(k) and flout the Court's decisions in these cases, and also conflict with the EPA's decision not to create an unlawful exemption in the Boilers case.[15] The commenter stated that the EPA provided no statutory explanation or interpretation of how its action could comport with CAA sections 112 and 302(k), therefore, if the EPA were to finalize these exemptions, the EPA would open itself up to a violation of the CAA's core rulemaking requirements applicable to CAA sections 112(d) and (f) standards.

The commenter asserted that the proposed rule therefore seeks to establish major exemptions that allow uncontrolled releases due to predictable and often-repeated malfunctions. The commenter noted that the even though the standard explicitly defines a violation as the second or even the third such release from the same PRD during a 3-year period, whether the second uncontrolled release from the same PRD is a violation depends on if the release has the same root cause. The commenter stated that PRDs are not independent emission points, and that PRDs never release pollution into the air or smoke unless there is a malfunction. The commenter also asserted that the EPA's attempt to define a new way in which a facility can claim excess emissions are not a violation echoes the ''affirmative defense'' provision the Court held unlawful in *NRDC,* 749 F.3d 1055, 1064 (D.C. Cir. 2013). The commenter argued that the EPA may not flout statutory constraints Congress enacted in its discretion by trying to remove civil penalty liability for excess emissions that violate the CAA and increase human exposure to toxic air pollution directly, contrary to the CAA. The commenter pointed to the cement kilns case, in which they asserted the EPA tried to claim that the unlawful affirmative defense to civil penalties was ''part of the emission standard,'' noted that the Court rejected these arguments in *NRDC,* 749 F.3d 1055, 1064 (D.C. Cir. 2013), and argued that precedent would apply equally here.[16] The commenter further argued that the proposed rule, by allowing owners or operators to conduct root cause analyses for these events, essentially permits owners or operators—not the courts—to make the determination whether they should be subject to enforcement or penalties for certain PRD releases, which determines whether an event is either actionable (*i.e.,* the result of operator error or poor maintenance, or whether it was the result of the same root cause as a prior event). The commenter further stated that the proposed exemptions contravene the citizen suit and penalty provisions by creating a *de facto* complete defense (not just an affirmative defense) from civil penalties for certain uncontrolled emission releases that would otherwise constitute violations. The commenter pointed to a ruling by the Court that explained how creating such a multi-stage complicated assessment to determine if a violation has occurred undermines the purpose of the CAA and the ability to enforce it.[17]

According to the commenter, by granting this exemption, the EPA may incentivize facilities to release large amounts of HAP through PRDs rather than flares to avoid using one of their ''free passes'' for the prohibition on visible smoke emissions from flares. Instead of meeting the CAA section 112 standards that apply to other facility equipment routed to PRDs or flares, the commenter asserted that exemptions authorize a facility to violate those limits and have no liability if the excess emissions are emitted directly into the air. The commenter stated that this even creates a perverse incentive for operators to install redundant PRDs on process equipment. The commenter also stated that, at the very least, the EPA must include regulations prohibiting the installation of new redundant PRDs to circumvent the prohibition on atmospheric releases.

The commenter further stated that emissions from malfunctions at ethylene production facilities that are released through PRDs are a significant source of underestimated HAP emissions. The commenter suggested that the emissions from PRD releases are a substantial problem for the industry as a whole when viewed over time. Further, the commenter argued that there is no upper limit on the amount of pollution an individual PRD event can release to the atmosphere. The commenter asserted that the EPA's proposed exemptions would, therefore, bar enforcement action against the worst events.

A commenter observed that uncontrolled PRD releases are preventable and avoidable, and that they need not occur if a facility avoids over-pressure in the system. The commenter referred to the proposal preamble, noting that such ''pressure build-ups are typically a sign of a malfunction of the underlying equipment,'' and PRDs ''are equipment installed specifically to release during malfunctions.'' Therefore, the commenter argued that the EPA cannot rely on any argument that equipment can fail, and that PRDs are necessary to address over-pressure and avoid a larger safety incident, and that the EPA has not relied on or demonstrated with any evidence that it is a valid concern. The commenter stated that even if it may be considered by the EPA in an administrative enforcement context or by the courts in an enforcement case, the EPA cannot authorize, up front, a whole set of problematic releases.

The commenter stated that the proposed malfunction standards for PRDs also break with prior Agency policy regarding malfunctions and for the use of case-by-case enforcement discretion to address malfunctions. The commenter stated that the Agency has repeatedly explained why case-by-case

[15] The commenter provided the following reference: See *U.S. Sugar Co.,* 830 F.3d at 607–08.

[16] The commenter provided the following reference: EPA, NESHAP, Portland Cement Summary of Public Comments and Responses at 124–25 (December 20, 2012) (''EPA's view is that the affirmative defense is part of the emission standard and defines two categories of violation.'').

[17] The commenter provided the following reference: ''Once excursion provisions are promulgated, an enforcement case no longer turns on the sharply defined issue of whether the plant discharged more pollutant than it was allowed to, but instead depends on murky determinations concerning the sequence of events in the plant, whether those events would have been avoidable if other equipment had been installed, and whether the discharge was within the intent of the excursion provision. Consequently, what Congress planned as a simple proceeding suitable for summary judgments would become a form of inquest into the nature of system malfunction.'' Weyerhaeuser, 590 F.2d at 1058.

evaluation of such issues is the only workable approach, and has repeatedly finalized prohibitions on uncontrolled releases from PRDs that vent directly to the atmosphere, fully aware that allowing such releases without an emission limit is a malfunction exemption prohibited both by the CAA and the Court's decision in *Sierra Club.* The commenter objected to this change and indicated that the EPA has failed to clearly explain this break with prior precedent.[18] The commenter noted that the EPA finalized similar provisions prohibiting PRD releases in MACT standards for Group IV Polymers and Resins, Pesticide Active Ingredient Manufacturing, and Polyether Polyols Production. The commenter further stated that the Court recently upheld this type of prohibition in *Mexichem Specialty Resins, Inc. v EPA,* 787 F.3d 544, 560–61 (DC Cir. 2015) and urged the EPA to finalize the standards for PRD as proposed. The commenter noted that in light of the EPA's prior policy, there can be "no doubt" that prohibiting uncontrolled PRD releases is lawful and consistent with the CAA. The commenter stated that the EPA has neither provided a reasoned explanation for the exemptions, nor acknowledged or explained the break in its prior policy against malfunction exemptions.

Response: We disagree that PRDs are simply bypasses for emissions that are subject to emission limits and controls and that they, thus, allow for uncontrolled emissions without violation or penalty. PRDs are generally safety devices that are used to prevent equipment failures that could pose a danger to the facility and facility workers. PRD releases are triggered by equipment or process malfunction. As such, they do not occur frequently or routinely and do not have the same emissions or release characteristics that routine emission sources have, even if the PRD and the vent are on the same equipment. This is because conditions during a PRD release (temperature, pressure, and vessel contents) differ from the conditions that exist during routine emissions from equipment. For example, emissions from ethylene process vents are predictable and must be characterized for emission potential and applicable control requirements prior to operation in the facility's NOCS report. In addition, PRDs must operate in a closed position and must be continuously monitored to identify when releases have occurred.

Under the final rule, if an affected PRD releases to the atmosphere, the owner or operator is required to perform root cause analysis and corrective action analysis as well as implement corrective actions and comply with the specified reporting requirements. The work practice standard also includes criteria for releases from affected PRDs that would result in a violation at 40 CFR 63.1107(h)(3)(v). We also note that a facility cannot simply choose to release pollutants from a PRD; any release that is caused willfully or caused by negligence or operator error is considered a violation.

We also disagree that PRDs are not independent emission points and instead function in venting emissions from other emission points during a malfunction. The commenter incorrectly suggests that the PRD work practice standard replaces the existing emission standards for connected equipment. The amendments to the NESHAP addressing PRDs do not affect requirements in the NESHAP that apply to equipment associated with the PRD. For example, compliance with the PRD provisions are required in addition to requirements for ethylene process vents for the same equipment. We also disagree with the comment that the standards for PRDs also break with prior agency policy regarding malfunctions. As commenters correctly note, the EPA has indeed both set work practice standards for PRDs and prohibited PRD releases in other source categories. As explained at proposal, however, the basis of the work practice standards promulgated for PRD releases in the Petroleum Refinery Sector RTR (80 FR 75178, December 1, 2015) were our underlying basis for the proposed work practice standards for PRD releases for facilities in the Ethylene Production source category (84 FR 54303, October 9, 2019).

The EPA evaluated the best performing facilities in determining the appropriate work practice standard, and as a result considered requirements established in the SCAQMD and BAAQMD rules and the Chemical Accident Prevent Provisions rule (84 FR 54303, October 9, 2019). These rules are the only rules we are aware of that address the infrequent and unpredictable nature of PRD releases. The EPA established a MACT standard based on these rules, and as part of this, we determined that either two or three PRD releases (depending on the root cause) from a single PRD in a 3-year period is a violation of the work practice standard.

Regarding citizen suits, we note that the regulations do not specify that the EPA Administrator would make a binding determination regarding whether a PRD release is in compliance or a violation, and the issue could be argued and resolved by a court in the context of a citizen suit.

Comment: We received comments in support of and against the work practice standards calling for root cause analysis and certain corrective actions. Some commenters supported the EPA's assessment that even at the best performing sources, releases from PRDs are likely to occur and cannot be safely routed to a control device. A commenter said the EPA's conclusion is consistent with company's experiences that pressure release actuation events, while infrequent, will occur even at properly designed and operated sources, including the best performers. Another commenter said that although they agree with the EPA's conclusion that it is not cost effective to control all PRD releases to the atmosphere, they do not agree that a root cause analysis and corrective action is a warranted work practice in every situation where a PRD relieves to the atmosphere and should not be required as part of the work practice standard for every PRD release. The commenter stated that under the Chemical Accident Prevention Program at 40 CFR 68.81(a), an incident investigation with root cause analysis is required only when the release is a catastrophic release or "could reasonably have resulted in a catastrophic release." The commenter said that a "catastrophic release" is defined as a "major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment." The commenter argued that the EPA has not established sufficient evidence in the background documents for this rulemaking to indicate that conducting a root cause analysis routinely for all PRD releases regardless of whether they meet the definition of "catastrophic release" is being performed by the best performing sources in the Ethylene Production source category.

Another commenter asserted that the EPA did not set a standard for PRDs that complies with the CAA requirements to assure both the "average emission limitation achieved" by the relevant best-performing sources and the

[18] The commenter provided the following references: See, *FCC* v. *Fox,* 556 U.S. 502, 516 (2009) (citing *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Automobile Insurance Co.,* 463 U.S. 29, 42 (1983)) ("the requirement that an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it is changing position. An agency may not, for example, depart from a prior policy sub silentio or simply disregard rules that are still on the books."); see also *Encino* v. *Navarro,* 136 S.Ct. 2117, 2125–26 (2016) (reaffirming *FCC* v. *Fox* and noting the need to explain changes in agency policy based on actual facts and circumstances).

"maximum degree of emission reduction" that is "achievable" and, therefore, the EPA's proposed standards for PRDs do not meet the CAA sections 112(d)(2) and (3) test. The commenter states there is no discussion in the proposed rule of these factors for PRD releases, much less an analysis or determination that allowing one—two uncontrolled releases every 3 years (plus *force majeure* event releases) reflects, at minimum, the average of the best performers' reductions, and is the "maximum achievable degree of emission reduction."

The commenter stated that the TCEQ data that the EPA relies on clearly demonstrate that at least 23 percent (likely higher) of ethylene production facilities have zero atmospheric releases. The EPA reviewed roughly 30 percent of all operating ethylene production facilities (*i.e.,* seven of 26 ethylene production facilities) in the source category that were chosen at random. The commenter notes that only one of the events was actually an atmospheric PRD release on a properly operating PRD, which means that six facilities, or 23 percent of all operating ethylene production facilities, had no atmospheric releases on a properly operating PRD. The commenter noted that the number of ethylene production facilities with zero atmospheric releases is higher. The commenter also stated that the EPA has not explained why it relied on data from the petroleum refinery sector when data for ethylene production facilities is readily available and relied on elsewhere in the rulemaking. The commenter noted that compliance data for refineries from 2019 under the 2015 Petroleum Refineries NESHAP that is publicly available shows that the average uncontrolled PRD has far fewer releases to the atmosphere than the EPA claims that the best performers do, and that the best-performing uncontrolled PRDs are likely to have no atmospheric releases over a 3-year period. The commenter provided data from 40 CFR part 63, subpart CC compliance reports available on the websites of state environmental agencies in Louisiana, Texas, and Indiana for 10 refineries that collectively represented approximately 1,030 uncontrolled PRDs. The commenter noted that these data suggest that the EPA is proposing a number of releases that is exponentially higher than what has been demonstrated by real-world results from refineries thus far, and that the average uncontrolled PRD from the average refinery has far fewer than the two or three releases to the atmosphere over 5 years that the EPA claims that the best performers do.

A commenter argued that the EPA should set a zero emission limit for all PRDs because the best-performing PRD has no emissions to the atmosphere and the average of the best-performing 12 percent emit nothing to the atmosphere. The commenter stated that since the emission limitation for new sources is to reflect the performance of best performing PRD, new PRDs would presumably be required to capture and return discharges to process units; existing PRDs would have to meet the average of the best performing PRD, which could not be less stringent than the emission rate of the best performing PRD controlled by flares.

A commenter recommended that the EPA require new and modified atmospheric PRDs or existing PRDs on modified process equipment to be routed to the fuel gas system, flare, or other control device that achieves 98-percent destruction efficiency, pursuant to the MACT floor, as the best performing PRDs are controlled and the best performing process units are not equipped with any PRDs that are capable of venting emissions directly to the atmosphere. The commenter requested that the EPA propose that uncontrolled HAP emissions no longer be allowed from a PRD, and any releases from such devices would have to be routed through a control device.

The commenter further stated that the EPA's determination on PRDs was based on review of SCAQMD and BAAQMD adopted programs that attempt to reduce uncontrolled releases from PRDs, with generally more stringent emission limitations and LDAR programs than federal programs. The commenter stated that the EPA should adopt the best features of those programs in strengthening the NESHAP, but that these efforts were not subject to or aiming to satisfy the MACT floor requirements of the CAA, nor are they determinative of the MACT floor for PRDs, which must be based on the level of control "achieved in practice" by the relevant best-performing 12 percent of emission sources (for existing sources), or the best single source (for new sources).

According to the commenter the SCAQMD data on PRD releases from refineries shows that five out of eight (more than 50 percent) of regulated facilities reported zero atmospheric PRDs releases between 2010 and 2015 (the total number of refineries in the SCAQMD data do not include those operated by Alon Refining, which were idled in 2012). Thus, the commenter stated that the SCAQMD data demonstrate that the best performing PRDs do not release emissions directly to the atmosphere.

The commenter further stated that the EPA has not actually implemented the requirements of the BAAQMD and SCAQMD programs, and that the BAAQMD and SCAQMD programs are far more protective than the proposed rule. First, the commenter noted the BAAQMD requires that the operator must control (via flare or routing to a process unit) all PRDs that discharge for a second time in a 5-year period, whereas the SCAQMD rules include a similar provision, but offer as an alternative payment of a fee of $350,000 for each PRD that is not controlled. The commenter added that SCAQMD rules also require control of any PRD that has a single large release of greater than 2,000 pounds per day (lbs/day). Second, the commenter noted the BAAQMD and SCAQMD rules require the use of three redundant systems, including worker training, inspection, and maintenance, and two redundant "hardware" oriented systems. The third significant difference noted by the commenter is the greater number of releases allowed by the option to parse releases by "root cause."

The commenter also stated that the EPA appears to have inappropriately categorized PRDs in its analysis. The commenter noted that the EPA stated it intended to regulate "atmospheric" PRD releases, *i.e.,* releases to the atmosphere, including those vented to a control device, however, in the proposed rule, the EPA appears to have effectively ignored the "best controlled" PRDs (those routed to processes with no discharge to the environment) and the "well-controlled" PRDs (those routed to high quality flares) and determined the MACT floor based on PRDs with some lesser level of regulation. The commenter stressed that the CAA does not allow the EPA to categorize in this manner (see CAA section 112(d)(1) (allowing the EPA only to "distinguish among classes, types, and sizes of sources")).

Response: At proposal, the EPA provided extensive discussions on why it was appropriate to establish a work practice standard for PRDs that vent to atmosphere, under CAA section 112(h). 84 FR 54302–304. We explained that no ethylene production facility is subject to numeric emission limits for PRDs that vent to the atmosphere. We posited that the EPA did not believe it was appropriate to subject PRDs that vent to the atmosphere to numeric emission limits due to technological and economical limitations that make it impracticable to measure emissions from such PRDs. We further explained

that CAA section 112(h)(1) allows the EPA to prescribe a work practice standard or other requirement, consistent with the provisions of CAA section 112(d) or (f), in those cases where, in the judgment of the Administrator, it is not feasible to enforce an emission standard. Additionally, we explained that CAA section 112(h)(2)(B) defines the term "not feasible" in this context as meaning that "the application of measurement technology to a particular class of sources is not practicable due to technological and economic limitations." We also noted that the basis of the work practice standards promulgated for PRD releases in the Petroleum Refinery Sector RTR (80 FR 75178, December 1, 2015) were our underlying basis for the proposed work practice standards at ethylene production facilities. 84 FR 54303.

As a general matter, CAA section 112 requires MACT for existing sources to be no less stringent than "the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information). . ." [(CAA section 112(d)(3)(A)]. "Emission limitation" is defined in the CAA as ". . .a requirement established by the State or Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard promulgated under this chapter" [CAA section 302(k)]. The EPA specifically considers existing rules from state and local authorities in identifying the "emission limitations" for a given source. We then identify the best performers to identify the MACT floor (the no less stringent than level) for that source. The EPA identified the requirements established in the SCAQMD and BAAQMD rules, and the Chemical Accident Prevent Provisions rule (40 CFR part 68) as the basis of the MACT floor because they represented the requirements applicable to the best performing sources. 84 FR 54303. Work practice standards are established in place of a numeric limit where it is not feasible to establish such limits. Thus, in a case such as this, where the EPA has determined that it is appropriate to establish work practice standards, it was reasonable for the EPA to identify the rules that impose the most stringent requirements and, thus, represent what applies to the best performers, and then to apply the requirements from those rules as MACT.

We recognize that the proposed standard for PRDs did not exactly mirror the SCAQMD, BAAQMD, or Chemical Accident Prevent Provisions rules exactly, but consider the requirements to be comparable. For example, we did not include a provision similar to that in the SCAQMD rule that excludes releases less than 500 lbs/day from the requirement to perform a root cause analysis; that provision in the SCAQMD rule does not include any other obligation to reduce the number of these events. Similarly, we did not include a provision that only catastrophic PRD releases must be investigated, as the commenter noted. Rather than allowing unlimited releases less than 500 lbs/day or that are not considered catastrophic, we require a root cause analysis for releases of any size. Because we count small releases that the SCAQMD rule does not regulate at all, we considered it reasonable to provide a higher number of releases prior to considering the owner or operator to be in violation of the work practice standard. We also adopted the three prevention measures requirements in the BAAQMD rule with limited modifications. After considering the PRD release event limits in both the SCAQMD and BAAQMD rules, we determined it was reasonable and appropriate to establish PRD requirements consistent with the flare work practice standard provisions in the SCAQMD and BAAQMD rules. Therefore, the final requirements provide that two or three events (depending on the root cause) from the same PRD in a 3-calendar-year period is a violation of the work practice standard. We also note that a facility cannot simply choose to release pollutants from a PRD; any release that is caused willfully or caused by negligence or operator error is considered a violation.

With respect to subcategorizing PRDs into those that vent to the atmosphere versus those that vent to a control system, we note that the only information we have available about when PRD releases occur at ethylene production facilities are from those PRDs that release directly to atmosphere. Regardless of whether we subcategorize or not, the best performing PRD for which we have information had one release over a 7-year period, and the backstop for how many releases are allowed to occur is based on this information over a long-term period of time given the random nature of when a PRD release might occur.

In summary, the work practice standard we are finalizing provides a comprehensive program to manage entire populations of PRDs and includes prevention measures, continuous monitoring, root cause analysis, and corrective actions, and addresses the potential for violations for multiple releases over a 3-year period. We followed the requirements of section 112 of the CAA, including CAA section 112(h), in establishing what work practice constituted the MACT floor.

Comment: Commenters requested that the EPA add a standard for minimizing emissions arising from degassing storage vessels that are complying with the control requirements in Table 7 to 40 CFR 63.1103(e). A commenter explained this request is due to their current interpretation of the proposed rule, wherein 40 CFR 63.1108(a)(5) no longer applies, and, thus, facilities may be required to vent to control devices at all times, even during degassing events. A commenter stated that the current rule requires facilities to address minimization of emissions from shutdown, which includes degassing, in the SSM plan required by 40 CFR 63.1111; and facilities have historically considered degassing emissions from shutdown of storage vessels to be covered by their SSM plans per 40 CFR 63.1108(a)(5) and relied on the language in 40 CFR 63.1108(a)(5) that back-up control devices are not required. The commenter requested the EPA subcategorize storage vessel degassing emissions as maintenance vents based on class, just as the EPA proposed for process vents. The commenter remarked that the Texas permit conditions presented in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Ethylene Production Source Category,* apply equally to both maintenance vents and degassing of storage vessels and stated these permit conditions reflect what the best performers have implemented for storage vessel degassing (for both fixed and floating roofs) for both new and existing sources. According to the commenter, it is not feasible to control all the emissions from the entire storage vessel emptying and degassing event and at some point, the storage vessel must be opened and any remaining vapors vented to the atmosphere. The commenter further stated that this venting of vapors to the atmosphere is similar to the EPA description for maintenance vents in the preamble to the proposed rule.

The commenter stated that the EPA referenced the memorandum, *Impacts for Control Options for Storage Vessels at Petroleum Refineries* (Docket Item ID

No. EPA–HQ–OAR–2010–0682–0199), as part of the EMACT storage vessel technology review, in which the EPA concluded that degassing controls for storage vessels were not cost effective. Additionally, the commenter said that in the EPA's summary of public comments and responses to the 2014 proposal for the Petroleum Refinery NESHAP RTR, the EPA stated: ". . . if a control device is used to comply with this final rule during normal operations, then such a control device must be used at all times, including during degassing of the storage vessel. Any bypassing of emissions from being routed to a control device to being routed to the atmosphere would be considered a violation of the standard."

Response: We agree with the commenters that complying with the storage vessel requirements in Table 7 at 40 CFR 63.1103(e)(3)(b) and (c) is not appropriate during storage vessel degassing events and a separate standard for storage vessel degassing is necessary, due to the nature of the activity. With the removal of SSM requirements, as proposed, a standard specific to storage vessel degassing does not exist when storage vessels are using control devices to comply with the requirements in Table 7 to 40 CFR 63.1103(e). We also agree with the commenters that storage vessel degassing is similar to maintenance vents (*e.g.,* equipment openings) and that there must be a point in time when the storage vessel can be opened and any emissions vented to the atmosphere. In response to this comment, therefore, we reviewed available data to determine how the best performers are controlling storage vessel degassing emissions.

We are aware of the following three regulations that address storage vessel degassing, two in the state of Texas and the third for the SCAQMD in California. Texas has degassing provisions in the Texas Administrative Code (TAC) (30 TAC Chapter 115, Subchapter F, Division 3. See *https://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=30&pt=1&ch=115&sch=F&div=3&rl=Y*) and through permit conditions (as noted by the commenter, see *https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mss/chem-mssdraftconditions.pdf*) while Rule 1149 contains the SCAMD degassing provisions (see *http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1149.pdf*). The TAC requirements are the least stringent and require control of degassing emissions until the vapor space concentration is less than 35,000 ppmv as methane or 50 percent of the LEL. The Texas permit conditions require control of degassing emissions until the vapor space concentration is less than 10 percent of the LEL or until the VOC concentration is less than 10,000 ppmv and SCAQMD Rule 1149 requires control of degassing emissions until the vapor space concentration is less than 5,000 ppmv as methane. The Texas permit conditions requiring compliance with 10 percent of the LEL and SCAQMD Rule 1149 control requirements are considered equivalent because 5,000 ppmv as methane equals 10 percent of the LEL for methane.

Ethylene production facilities located in Texas are subject to maintenance, startup, and shutdown (MSS) special permit conditions, but no ethylene production facilities are subject to the SCAQMD rule. Of the 26 currently operating ethylene production facilities, 17 are in Texas. Therefore, the Texas permit conditions relying on storage vessel degassing until 10 percent of LEL is achieved reflect what the best performers have implemented for storage vessel degassing and we considered this information as the MACT floor for both new and existing sources. Notably, this also aligns with the commenter's assessment.

We reviewed permit condition 6 (applicable to floating roof storage vessels) and permit condition 7 (applicable to fixed roof storage vessels) for key information that could be implemented to form the basis of a standard for storage vessel degassing that are required for facilities in Texas. The permit conditions require control of degassing emissions for floating roof and fixed roof storage vessels until the vapor space concentration is less than 10 percent of the LEL. The permit conditions also specify that facilities can also degas a storage vessel until they meet a VOC concentration of 10,000 ppmv, but we do not consider 10,000 ppmv to be equivalent to or as stringent as the compliance option to meet 10 percent of the LEL and are not including this as a compliance option. We also do not expect the best performers would be using this concentration for compliance, which is supported by the commenters recommending the requirements mimic the maintenance vent requirements and because the Texas permit conditions allow facilities to calibrate their LEL monitor using methane. Storage vessels may be vented to the atmosphere once the storage vessel degassing concentration threshold is met (*i.e.,* less than 10 percent of the LEL) and all standing liquid has been removed from the vessel to the extent practicable. These requirements are considered MACT for both new and existing sources and we are finalizing these requirements at 40 CFR 63.1103(e)(10).

We calculated the impacts due to controlling storage vessel degassing emissions by evaluating the population of storage vessels that are subject to control under Table 7 at 40 CFR 63.1103(e)(3)(b) and (c) and not located in Texas. Storage vessels in the Ethylene Production source category in Texas would already be subject to the degassing requirements, and there would not be additional costs or emissions reductions for these facilities. Our review of the CAA section 114 ICR survey responses, showed that most storage vessels are seldom degassed, with an average of 14 years between degassing events. Based on this average and the population of storage vessels that are not in Texas, we estimated two storage vessel degassing events would be newly subject to control each year. Controlling storage vessel degassing would reduce HAP emissions by 1.7 tpy, with a total annual cost of $9,400. See the technical memoranda, *Storage Vessel Degassing Model Development and Final Cost* and *Emissions Impacts for Ethylene Production NESHAP RTR,* which are available in Docket ID No. EPA–HQ–OAR–2017–0357 for details on the assumptions and methodologies used in this analysis.

We also considered options BTF, but we did not identify any and are not aware of storage vessel degassing control provisions more stringent than those discussed above and being finalized in this rule, therefore, no BTF option was evaluated.

Comment: We received comments in support of the proposed work practice standards for decoking operations. One commenter agreed with the EPA's conclusion to propose work practices for decoking operations pursuant to CAA section 112(h)(1) due to technological and economic limitations.

However, another commenter stated that the proposed requirements for new and existing decoking operations failed to meet the requirements of CAA sections 112(d)(2) and (3). The commenter stated that the EPA correctly proposes to remove the general SSM exemptions, but instead proposes to regulate HAP emissions from decoking operations through work practice standards rather than emission limits, and includes four alternate actions for decoking of radiant tubes. The commenter asserted that the EPA may not set work practice standards unless it is "not feasible to prescribe or enforce an emission standard." The commenter noted that the EPA provides no explanation or justification for why it chose four alternate practices, rather

than identifying the combination of practices that would eliminate HAP emissions, or reduce them to the furthest extent possible, consistent with CAA sections 112(d)(2) and (3). Additionally, the commenter stated that the EPA admits that the test data it collected from industry is unreliable, and inappropriately relies on this claim to posit that the Agency is entitled to promulgate a work practice standard. The commenter argued that the EPA's proposed standard is, therefore, inconsistent with the CAA's MACT requirements.

Response: We agree with the commenters who state that work practice standards are appropriate for decoking operations due to technological and economic limitations. We are adopting these proposed work practice standards into the final rule with only minor changes, which are discussed elsewhere in rulemaking record (see the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Ethylene Production,* which is available in Docket ID No. EPA–HQ–OAR–2017–0357).

We disagree that the work practice standards for decoking operations fail to meet the requirements of CAA sections 112(d)(2) and (3) and are inconsistent with the CAA's MACT requirements. As explained in the preamble to the proposed rule, we are adopting work practice standards instead of numeric emission limits as it is "not feasible to prescribe or enforce an emission standard" for these emissions because "the application of measurement technology to a particular class of sources is not practicable due to technological and economic limitations" (see CAA section 112(h)(2)(B)). 84 FR 54307–309. The emissions stream generated from decoking operations (*i.e.,* the combination of coke combustion constituents, air, and steam from the radiant tube(s)) is very dilute with a high moisture content (*e.g.,* generally >95 percent water); and as explained in the preamble to the proposed rule, based on CAA section 114 ICR data, the majority of emissions measurements from the stream are not "technologically practicable" within the meaning of CAA section 112(h) because they are below detection limits. We have also previously reasoned that "application of measurement methodologies" under CAA section 112(h) must also mean that a measurement has some reasonable relation to what the source is emitting (*i.e.,* that the measurement yields a meaningful value). We have further explained that unreliable measurements raise issues of practicability, feasibility, and enforceability. Additionally, we have posited that the application of measurement methodology would also not be "practicable due to . . . economic limitation" within the meaning of CAA section 112(h) because it would result in cost expended to produce analytically suspect measurements. Refer to the Area Source Boiler Rule (75 FR 31906, June 4, 2010) and the NESHAP for the Wool Fiberglass Manufacturing source category (80 FR 45280 and 45312, July 29, 2015).

Moreover, the final rule, at 40 CFR 63.1103(e)(7), requires owners or operators to conduct daily inspections for flame impingement and also implement at least two of four other work practices to minimize coke combustion emissions from the decoking of the radiant tube(s) in each ethylene cracking furnace. Specifically, 40 CFR 63.1103(e)(7)(ii) through (v) requires owners or operators choose to conduct two of the following work practices: Monitor CO_2 concentration, monitor temperature, purge the radiant tube(s), and/or apply material to the interior of the radiant tube(s)). In addition, the final rule, at 40 CFR 63.1103(e)(8), requires owners or operators to conduct ethylene cracking furnace isolation valve inspections. With regard to the comment that the EPA provided no explanation or justification for why we chose the four other work practices, we believe each control measure is feasible and effective in reducing HAP emissions from decoking an ethylene cracking furnace. As explained in the preamble to the proposed rule (84 FR 54278, October 9, 2019), based on discussions with industry, as well as a review of facility-specific SSM plans that were submitted to the EPA in response to the CAA section 114 request, we determined that owners or operators already conduct work practices to minimize emissions due to coke combustion. We determined the measures to be consistent with CAA section 112(d) controls and reflect a level of performance analogous to a MACT floor; and we believe that it is most effective for sources to determine the best practices from the list of options. Regarding the comment as to unreliable data being used to support setting standards, as previously noted, the EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem and courts generally defer to the agency's decision to proceed on the basis of imperfect scientific information, rather than to "invest the resources to conduct the perfect study." *Sierra Club* v. *EPA,* 167 F. 3d 658, 662 (D.C. Cir. 1999)(If EPA were required to gather exhaustive data about a problem for which gathering such data is not yet feasible, the agency would be unable to act even if such inaction had potentially significant consequences . . . [A]n agency must make a judgment in the face of a known risk of unknown degree." *Mexichem Specialty Resins, Inc.,* 787 F.3d. 561.).

4. What is the rationale for our final approach and final decisions for the revisions pursuant to CAA sections 112(d)(2) and (3)?

We evaluated all of the comments on the EPA's proposed amendments to revisions for flares used as APCDs, clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, certain gaseous streams routed to a fuel gas system, and associated decoking operations for ethylene cracking furnaces (*i.e.,* the decoking of ethylene cracking furnace radiant tubes). For the reasons explained in the proposed rule (84 FR 54278, October 9, 2019), we determined that the flare amendments are needed to ensure that flares used as APCD achieve the required level of MACT control and meet 98 percent destruction efficiency at all times as well as to ensure that CAA section 112 standards apply at all times. Similarly, the clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, certain gaseous streams routed to a fuel gas system, and work practice standards associated decoking operations for ethylene cracking furnaces are needed to be consistent with *Sierra Club* v. *EPA, 551 F.3d* 1019 (D.C. Cir. 2008) to ensure that CAA section 112 standards apply at all times. More information and rationale concerning all the amendments we are finalizing pursuant to CAA sections 112(d)(2) and (3) is in the preamble to the proposed rule (84 FR 54278, October 9, 2019), section IV.B.3 of this preamble, and in the comments and our specific responses to the comments in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* which is available in the docket for this action. Therefore, we are finalizing the proposed provisions for flares (except that we are not finalizing the work practice standard for velocity exceedances for flares operating above their smokeless capacity), finalizing the proposed clarifications for periods of

SSM and bypasses, including PRD releases, bypass lines on closed vent systems, in situ sampling systems, maintenance activities, certain gaseous streams routed to a fuel gas system, and finalizing the proposed work practice standards for the decoking of ethylene cracking furnaces with only minor editorial corrections and technical clarifications.

D. Amendments Addressing Emissions During Periods of SSM

1. What amendments did we propose to address emissions during periods of SSM?

We proposed amendments to the EMACT standards to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. In a few instances, we are finalizing alternative standards for certain emission points during periods of SSM to ensure a continuous CAA section 112 standard applies ''at all times,'' (see section IV.C); however for the majority of emission points in the Ethylene Production source category, we proposed eliminating the SSM exemptions and to have the MACT standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 54278, October 9, 2019).

2. How did the SSM provisions change since proposal?

We are finalizing the SSM provisions as proposed (84 FR 54278, October 9, 2019) with only minor changes to 40 CFR 63.1103(e)(9) to sufficiently address the SSM exemption provisions from subparts referenced by the EMACT standards.

3. What key comments did we receive on the SSM revisions and what are our responses?

While we are finalizing some alternative standards in this final rule for certain emission points during periods of SSM to ensure a continuous CAA section 112 standard applies ''at all times,'' (see section IV.C), we also proposed eliminating the SSM exemptions for the majority of emission points in the Ethylene Production source category. We did not receive many substantive comments on the removal of these exemptions; however, the comments and our specific responses to these items can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

4. What is the rationale for our final approach and final decisions to address emissions during periods of SSM?

We evaluated all of the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule (84 FR 54278, October 9, 2019), we determined that these amendments, which remove and revise provisions related to SSM, are necessary to be consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule (84 FR 54278, October 9, 2019) and in the comments and our specific responses to the comments in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action. Therefore, we are finalizing our approach for the SSM provisions as proposed.

E. Technical Amendments to the EMACT Standards

1. What other amendments did we propose for the Ethylene Production source category?

We proposed that owners or operators submit electronic copies of required performance test results and reports and NOCS reports through the EPA's CDX using the CEDRI; and we proposed two broad circumstances in which we may provide extension to these requirements. We proposed at 40 CFR 63.1110(a)(10)(iii) that an extension may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports. We also proposed at 40 CFR 63.1110(a)(10)(iv) that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

To correct a disconnect between having a NPDES permit that meets certain allowable discharge limits at the discharge point of a facility *(e.g.,* outfall) and being able to adequately identify a leak, we proposed the removal of the exemption at 40 CFR 63.1084(c) for once-through heat exchange systems to comply with 40 CFR 63.1085 and 40 CFR 63.1086. We also proposed the removal of the exemption at 40 CFR 63.1084(d) because the provision lacks the specificity of where a sample must be taken to adequately find and quantify a leak from a once-through heat exchange system.

Further, to provide flexibility and reduce the burden on ethylene production facilities, we proposed overlap provisions at 40 CFR 63.1100(g) allowing an owner or operator subject to both the equipment leak EMACT standards and 40 CFR part 60, subpart VVa to comply with the EMACT standards only (instead of complying with both standards), provided the owner or operator also complies with the calibration drift assessment provisions at 40 CFR 60.485a(b)(2).

Finally, we proposed revisions for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 9 of the proposal. See 84 FR 54278, October 9, 2019.

2. How did the other amendments for the Ethylene Production source category change since proposal?

Since proposal, the electronic reporting requirements and the technical and editorial corrections in Table 9 of the proposal (see 84 FR 54278, October 9, 2019) have not changed and we are finalizing all the proposed requirements. Additionally, we are correcting an error in the final rule to clarify that Periodic Reports must also be submitted electronically (*i.e.,* through the EPA's CDX website using the appropriate electronic report template for this subpart) beginning no later than the compliance dates specified in 40 CFR 63.1102(c) or once the report template has been available on the CEDRI website for at least 1 year, whichever date is later. We are also including several additional minor clarifying edits in the final rule based on comments received during the public comment period.

3. What key comments did we receive on the other amendments for the Ethylene Production source category and what are our responses?

We did not receive many substantive comments on the other amendments in the Ethylene Production RTR proposal. These items generally include issues related to electronic reporting, removal of the allowance to use NPDES permits to identify leaks for heat exchange systems, overlap provisions for equipment leaks, and revisions that we proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. The comments and our specific responses to these items can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the*

Ethylene Production Source Category, available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the other amendments for the Ethylene Production source category?

Based on the comments received for these other amendments, we are generally finalizing all proposed requirements. In a few instances (*e.g.,* overlap provisions for equipment leaks), we received comments such that minor editorial corrections and technical clarifications are being made, and our rationale for these corrections and technical clarifications can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Reviews for the Ethylene Production Source Category,* available in the docket for this action.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

As of January 1, 2017, there were 26 ethylene production facilities currently operating that are major sources of HAP, and the EPA is aware of five ethylene production facilities under construction. As such, we estimate that 31 ethylene production facilities will be subject to the final amendments within the next 3 years. A complete list of facilities that are currently subject, or will be subject, to the EMACT standards is available in Appendix A of the memorandum, *Review of the RACT/BACT/LAER Clearinghouse Database for the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357.

B. What are the air quality impacts?

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

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B. What are the air quality impacts?

We estimate HAP emissions reductions of 29 tpy and VOC emissions reductions of 232 tpy as a result of the final amendments for storage vessels, heat exchange systems, and decoking operations for ethylene cracking furnaces. These emissions reductions do not consider the potential excess emissions reductions from flares that could result from the final monitoring requirements; we estimate flare excess emissions reductions of 1,430 tpy HAP and 13,020 tpy VOC. When considering the flare excess emissions, the total emissions reductions as a result of the final amendments are estimated at 1,459 tpy HAP and 13,252 tpy VOC. These emissions reductions are documented in the following memoranda, which are available in Docket ID No. EPA–HQ–OAR–2017–0357: *Assessment of Work Practice Standards for Ethylene Cracking Furnace Decoking Operations Located in the Ethylene Production Source Category; Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems in the Ethylene Production Source Category; Control Option Impacts for Flares Located in the Ethylene Production Source Category;* and *Final Cost and Emissions Impacts for Ethylene Production NESHAP RTR.*

C. What are the cost impacts?

We estimate the total capital costs of the final amendments to be $47.2 million and the total annualized costs to be about $10.4 million in 2016 dollars (annualized costs include annual recovery credits of $180,000). The present value in 2020 of the costs is $87.5 million at a discount rate of 3 percent and $74.9 million at 7 percent. Calculated as an equivalent annualized value, which is consistent with the present value of costs, the costs are $9.4 million at a discount rate of 7 percent and $10.9 million at a discount rate of 3 percent. These cost estimates are included in the memorandum, *Economic Impact Analysis for Ethylene Production NESHAP RTR Final,* which is available in the docket for this action. The costs are associated with the final amendments for flares, PRDs, maintenance (equipment openings), storage vessels, heat exchange systems, and decoking operations for ethylene cracking furnaces. Costs for flares include purchasing analyzers, monitors, natural gas and steam, developing a flare management plan, and performing root cause analysis and corrective action (details are available in the memorandum, *Control Option Impacts for Flares Located in the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357). Costs for PRDs were developed based on compliance with the final work practice standard and include implementation of three prevention measures, performing root cause analysis and corrective action, and purchasing PRD monitors (details are available in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357). Maintenance costs were estimated to document equipment opening procedures and to document circumstances under which the alternative maintenance vent limit is used (details are available in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357). Heat exchange systems costs include the use of the Modified El Paso Method to monitor for leaks (details are available in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems in the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357). The costs associated with decoking operations for ethylene cracking furnaces include conducting isolation valve inspections and conducting flame impingement firebox inspections (details are available in the memorandum, *Assessment of Work Practice Standards for Ethylene Cracking Furnace Decoking Operations Located in the Ethylene Production Source Category,* in Docket ID No. EPA–HQ–OAR–2017–0357). Costs for controlling storage vessel degassing emissions are discussed in the memorandum, *Final Cost and Emissions Impacts for Ethylene Production NESHAP RTR,* which is available in the docket for this action.

D. What are the economic impacts?

The EPA conducted economic impact analyses for the amendments to the final rule, as detailed in the memorandum, *Economic Impact Analysis for Ethylene Production NESHAP RTR Final,* which is available in the docket for this action. The economic impacts of the amendments to the final rule are calculated as the percentage of total annualized costs incurred by affected parent owners to their annual revenues. This ratio of total annualized costs to annual revenues provides a measure of the direct economic impact to parent owners of ethylene production facilities while presuming no passthrough of costs to ethylene consumers. We estimate that none of the 16 parent owners affected by the amendments to the final rule will incur total annualized costs of 0.02 percent or greater of their revenues. Of the 16 parent owners, none

of them is a small business according to the Small Business Administration's small business size standard (for NAICS 325110, 1,000 employees or less). Product recovery, which is estimated as an impact of the final amendments, is included in the estimate of total annualized costs that is an input to the economic impact analysis. Thus, these economic impacts are quite low for affected companies and the ethylene production industry, and consumers of ethylene should experience minimal price changes.

E. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Ethylene Production source category across different demographic groups within the populations living near facilities.

Our analysis of the demographics of the population with estimated risks greater than 1-in-1 million indicates potential disparities in risks between demographic groups, including the African American, Hispanic or Latino, Over 25 Without a High School Diploma, and Below the Poverty Level groups. In addition, the population living within 50 km of the ethylene production facilities has a higher percentage of minority, lower income, and lower education people when compared to the nationwide percentages of those groups. However, acknowledging these potential disparities, the risks for the source category were determined to be acceptable, and emissions reductions from the final amendments will benefit these groups the most.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Ethylene Production Source Category Operations,* available in the docket for this action.

F. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the risk report, *Residual Risk Assessment for the Ethylene Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Economic Impact Analysis for Ethylene Production NESHAP RTR Final,* is available in the docket for this rule.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1983.10. The OMB Control Number is 2060–0489. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that change the reporting and recordkeeping requirements for several emission sources at ethylene production facilities (*e.g.,* flares, decoking operations for ethylene cracking furnaces, heat exchangers, PRDs, storage vessels). The final amendments also require electronic reporting, remove the malfunction exemption, and impose other revisions that affect reporting and recordkeeping. This information would be collected to assure compliance with 40 CFR part 63, subparts XX and YY.

Respondents/affected entities: Owners or operators of ethylene production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subparts XX and YY).

Estimated number of respondents: 31 (total).

Frequency of response: Semiannual and annual.

Total estimated burden: 8,500 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,410,000 (per year), which includes $3,660,000 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. There are no small entities affected in this regulated industry. See the document, *Economic Impact Analysis for Ethylene Production NESHAP RTR Final,* available in the docket for this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the

relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the ethylene production facilities that have been identified as being affected by this final action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. As discussed in the preamble of the proposal, the EPA conducted searches for the EMACT standards through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3B, 4, 5, 18, 21, 22, 25, 25A, 27, and 29 of 40 CFR part 60, appendix A, EPA Methods 301, 316, and 320 of 40 CFR part 63, appendix A, and EPA Methods 602 and 624 of 40 CFR part 136, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method.

The EPA incorporates by reference VCS ANSI/ASME PTC 19.10–1981 (Part 10), "Flue and Exhaust Gas Analyses," as an acceptable alternative to EPA Methods 3A and 3B for the manual procedures only and not the instrumental procedures. This method is used to quantitatively determine the gaseous constituents of exhausts including oxygen, CO_2, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons, and is available at the American National Standards Institute (ANSI), 1899 L Street NW, 11th floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990. See *https://wwww.ansi.org* and *https://www.asme.org.*

Also, the EPA incorporates by reference VCS ASTM D6420–18, "Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry," as an acceptable alternative to EPA Method 18 with the following caveats. This ASTM procedure uses a direct interface gas chromatograph/mass spectrometer to identify and quantify VOC and has been approved by the EPA as an alternative to EPA Method 18 only when the target compounds are all known and the target compounds are all listed in ASTM D6420–18 as measurable. ASTM D6420–18 should not be used for methane and ethane because the atomic mass is less than 35; and ASTM D6420–18 should never be specified as a total VOC method.

In addition, the EPA incorporates by reference VCS ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," as an acceptable alternative to EPA Method 320 with caveats requiring inclusion of selected annexes to the standard as mandatory. This ASTM procedure uses an extractive sampling system that routes stationary source effluent to an FTIR spectrometer for the identification and quantification of gaseous compounds. The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; therefore, the EPA incorporates by reference, "Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy." This ASTM procedure also uses an extractive sampling system and FTIR spectrometer for the identification and quantification of gaseous compounds. The percent (%) R must be determined for each target analyte (Equation A5.5) when using ASTM D6348–03, Annex A5 (Analyte Spiking Technique). In order for the test data to be acceptable for a compound, %R must be $70\% \geq R \leq 130\%$. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/%R.

The three ASTM methods (ASTM D6420–18, ASTM D6348–12e1, and ASTM D 6348–03) newly incorporated by reference in this rule are available to the public for free viewing online in the Reading Room section on ASTM's website at *https://www.astm.org/READINGLIBRARY/.* In addition to this free online viewing availability on ASTM's website, hard copies and printable versions are available for purchase from ASTM at *http://www.astm.org/.*

Also, the EPA decided not to include 17 other VCS; these methods are impractical as alternatives because of the lack of equivalency, documentation, validation date, and other important technical and policy considerations. The search and review results have been documented and are in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Ethylene Production RTR,* which is available in the docket for this action.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) (in subpart A—General Provisions), a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

Finally, although not considered a VCS, the EPA incorporates by reference, "Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)" (SW–846–8260B) and "Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)" (SW–846–8270D) into 40 CFR 63.1107(a); and "Air Stripping Method (Modified El Paso

Method) for Determination of Volatile Organic Compound Emissions from Water Sources,'' into 40 CFR 63.1086(e) and 40 CFR 63.1089(d). Each of these methods is used to identify organic HAP in water; however, SW–846–8260B and SW–846–8270D use water sampling techniques and the Modified El Paso Method uses an air stripping sampling technique. The SW–846 methods are available from the EPA at *https://www.epa.gov/hw-sw846* while the Modified El Paso Method is available from TCEQ at *https://www.tceq.texas.gov/assets/public/compliance/field_ops/guidance/samplingappp.pdf.*

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Ethylene Production Source Category Operations,* available in the docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 12, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Revising paragraphs (e)(1) and (h)(18), (83), and (85);
■ b. Redesignating paragraphs (h)(92) through (112) as paragraphs (h)(93) through (113);
■ c. Adding new paragraph (h)(92);
■ d. Revising paragraphs (n)(12) and (13); and
■ e. Revising paragraph (t)(1).

The revisions and addition read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), 63.1625(b), 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(h) * * *

(18) ASTM D1946–90 (Reapproved 1994), Standard Method for Analysis of Reformed Gas by Gas Chromatography, 1994, IBR approved for §§ 63.11(b), 63.987(b), and 63.1412.

* * * * *

(83) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2003, IBR approved for §§ 63.457(b), 63.997(e), and 63.1349, table 4 to subpart DDDD, table 4 to subpart UUUU, table 4 subpart ZZZZ, and table 8 to subpart HHHHHHH.

* * * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.997(e) and 63.1571(a) and Table 4 to subpart UUUU.

* * * * *

(92) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved November 1, 2018, IBR approved for § 63.987(b) and § 63.997(e).

* * * * *

(n) * * *

(12) SW–846–8260B, Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 2, December 1996, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for §§ 63.1107(a), 63.11960, 63.11980, and table 10 to subpart HHHHHHH.

(13) SW–846–8270D, Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 4, February 2007, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for §§ 63.1107(a), 63.11960, 63.11980, and table 10 to subpart HHHHHHH.

* * * * *

(t) * * *

(1) ''Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources,'' Revision Number One, dated January 2003, Sampling Procedures Manual, Appendix P: Cooling Tower Monitoring, January 31, 2003, IBR approved for §§ 63.654(c) and (g), 63.655(i), 63.1086(e), 63.1089(d), and 63.11920.

* * * * *

Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

■ 3. Section 63.987 is amended by revising parameter ''Dj'' of Equation 1 in paragraph (b)(3)(ii) to read as follows:

§ 63.987 Flare requirements.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

* * * * *

Dj = Concentration of sample component j, in parts per million by volume on a wet basis, as measured for organics by Method 18 of 40 CFR part 60, appendix A, or by ASTM D6420–18 (incorporated by reference, see § 63.14) under the conditions specified in § 63.997(e)(2)(iii)(D)(*1*) through (*3*). Hydrogen and carbon monoxide are measured by ASTM D1946–90

(Reapproved 1994) (incorporated by reference, see § 63.14); and

* * * * *

■ 4. Section 63.997 is amended by revising paragraphs (e)(2)(iii) introductory text, (e)(2)(iii)(C)(*1*), (e)(2)(iii)(D), (e)(2)(iv) introductory text, and (e)(2)(iv)(F) and (I) to read as follows:

§ 63.997 Performance test and compliance assessment requirements for control devices.

* * * * *

(e) * * *

(2) * * *

(iii) *Total organic regulated material or TOC concentration.* To determine compliance with a parts per million by volume total organic regulated material or TOC limit, the owner or operator shall use Method 18 or 25A of 40 CFR part 60, appendix A, as applicable. The ASTM D6420–18 (incorporated by reference, see § 63.14) may be used in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section. Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A to this part may be used. The procedures specified in paragraphs (e)(2)(iii)(A), (B), (D), and (E) of this section shall be used to calculate parts per million by volume concentration. The calculated concentration shall be corrected to 3 percent oxygen using the procedures specified in paragraph (e)(2)(iii)(C) of this section if a combustion device is the control device and supplemental combustion air is used to combust the emissions.

* * * * *

(C) * * *

(*1*) The emission rate correction factor (or excess air), integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, or the manual method in ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference, see § 63.14), shall be used to determine the oxygen concentration. The sampling site shall be the same as that of the organic regulated material or organic compound samples, and the samples shall be taken during the same time that the organic regulated material or organic compound samples are taken.

* * * * *

(D) To measure the total organic regulated material concentration at the outlet of a control device, use Method 18 of 40 CFR part 60, appendix A, or ASTM D6420–18 (incorporated by reference, see § 63.14). If you have a combustion control device, you must first determine which regulated material compounds are present in the inlet gas stream using process knowledge or the screening procedure described in Method 18. In conducting the performance test, analyze samples collected at the outlet of the combustion control device as specified in Method 18 or ASTM D6420–18 for the regulated material compounds present at the inlet of the control device. The method ASTM D6420–18 may be used only under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section.

(*1*) If the target compounds are all known and are all listed in Section 1.1 of ASTM D6420–18 as measurable.

(*2*) ASTM D6420–18 may not be used for methane and ethane.

(*3*) ASTM D6420–18 may not be used as a total VOC method.

* * * * *

(iv) *Percent reduction calculation.* To determine compliance with a percent reduction requirement, the owner or operator shall use Method 18, 25, or 25A of 40 CFR part 60, appendix A, as applicable. The method ASTM D6420–18 (incorporated by reference, see § 63.14) may be used in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section. Alternatively, any other method or data that have been validated according to the applicable procedures in Method 301 of appendix A to this part may be used. The procedures specified in paragraphs (e)(2)(iv)(A) through (I) of this section shall be used to calculate percent reduction efficiency.

* * * * *

(F) To measure inlet and outlet concentrations of total organic regulated material, use Method 18 of 40 CFR part 60, appendix A, or ASTM D6420–18 (incorporated by reference, see § 63.14), under the conditions specified in paragraphs (e)(2)(iii)(D)(*1*) through (*3*) of this section. In conducting the performance test, collect and analyze samples as specified in Method 18 or ASTM D6420–18. You must collect samples simultaneously at the inlet and outlet of the control device. If the performance test is for a combustion control device, you must first determine which regulated material compounds are present in the inlet gas stream (*i.e.,* uncontrolled emissions) using process knowledge or the screening procedure described in Method 18. Quantify the emissions for the regulated material compounds present in the inlet gas stream for both the inlet and outlet gas streams for the combustion device.

* * * * *

(I) If the uncontrolled or inlet gas stream to the control device contains formaldehyde, you must conduct emissions testing according to paragraphs (e)(2)(iv)(I)(*1*) through (*3*) of this section.

(*1*) Except as specified in paragraph (e)(2)(iv)(I)(*3*) of this section, if you elect to comply with a percent reduction requirement and formaldehyde is the principal regulated material compound (*i.e.,* greater than 50 percent of the regulated material compounds in the stream by volume), you must use Method 316 or 320 of appendix A to this part, to measure formaldehyde at the inlet and outlet of the control device. Use the percent reduction in formaldehyde as a surrogate for the percent reduction in total regulated material emissions.

(*2*) Except as specified in paragraph (e)(2)(iv)(I)(*3*) of this section, if you elect to comply with an outlet total organic regulated material concentration or TOC concentration limit, and the uncontrolled or inlet gas stream to the control device contains greater than 10 percent (by volume) formaldehyde, you must use Method 316 or 320 of appendix A to this part, to separately determine the formaldehyde concentration. Calculate the total organic regulated material concentration or TOC concentration by totaling the formaldehyde emissions measured using Method 316 or 320 and the other regulated material compound emissions measured using Method 18 or 25/25A of 40 CFR part 60, appendix A.

(*3*) You may elect to use ASTM D6348–12e1 (incorporated by reference, § 63.14) in lieu of Method 316 or 320 of appendix A to this part as specified in paragraph (e)(2)(iv)(I)(*1*) or (*2*) of this section. To comply with this paragraph, the test plan preparation and implementation in the Annexes to ASTM D6348–03 (incorporated by reference, see § 63.14) Sections A1 through A8 are mandatory; the percent (%) R must be determined for each target analyte using Equation A5.5 of ASTM D6348–03 Annex A5 (Analyte Spiking Technique); and in order for the test data to be acceptable for a compound, the %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, then the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be

reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/%R.

Subpart XX—National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

■ 5. Section 63.1081 is revised to read as follows:

§ 63.1081 When must I comply with the requirements of this subpart?

You must comply with the requirements of this subpart according to the schedule specified in § 63.1102(a). Each heat exchange system which is part of an ethylene production affected source also must comply with paragraph (a) of this section. Each waste stream which is part of an ethylene production affected source also must comply with paragraph (b) of this section.

(a) Each heat exchange system that is part of an ethylene production affected source that commenced construction or reconstruction on or before October 9, 2019, must be in compliance with the heat exchange system requirements specified in §§ 63.1084(f), 63.1085(e) and (f), 63.1086(e), 63.1087(c) and (d), 63.1088(d), and 63.1089(d) and (e) upon initial startup or July 6, 2023, whichever is later. Each heat exchange system that is part of an ethylene production affected source that commences construction or reconstruction after October 9, 2019, must be in compliance with the heat exchange system requirements specified in §§ 63.1084(f), 63.1085(e) and (f), 63.1086(e), 63.1087(c) and (d), 63.1088(d), and 63.1089(d) and (e) upon initial startup, or July 6, 2020, whichever is later.

(b) Each waste stream that is part of an ethylene production affected source that commenced construction or reconstruction on or before October 9, 2019, must be in compliance with the flare requirements specified in § 63.1095(a)(1)(vi) and (b)(3) upon initial startup or July 6, 2023, whichever is later. Each waste stream that is part of an ethylene production affected source that commences construction or reconstruction after October 9, 2019, must be in compliance with the flare requirements specified in § 63.1095(a)(1)(vi) and (b)(3) upon initial startup, or July 6, 2020, whichever is later.

■ 6. Section 63.1082 is amended in paragraph (b) by revising definitions for "Dilution steam blowdown waste stream," and "Spent caustic waste stream" to read as follows:

§ 63.1082 What definitions do I need to know?

* * * * *

(b) * * *

Dilution steam blowdown waste stream means any continuously flowing process wastewater stream resulting from the quench and compression of cracked gas (the cracking furnace effluent) at an ethylene production unit and is discharged from the unit. This stream typically includes the aqueous or oily-water stream that results from condensation of dilution steam (in the cracking furnace quench system), blowdown from dilution steam generation systems, and aqueous streams separated from the process between the cracking furnace and the cracked gas dehydrators. The dilution steam blowdown waste stream does not include blowdown that has not contacted HAP-containing process materials. Before July 6, 2023, the dilution steam blowdown waste stream does not include dilution steam blowdown streams generated from sampling, maintenance activities, or shutdown purges. Beginning on July 6, 2023, the dilution steam blowdown streams generated from sampling, maintenance activities, or shutdown purges are included in the definition of dilution steam blowdown waste stream.

* * * * *

Spent caustic waste stream means the continuously flowing process wastewater stream that results from the use of a caustic wash system in an ethylene production unit. A caustic wash system is commonly used at ethylene production units to remove acid gases and sulfur compounds from process streams, typically cracked gas. Before July 6, 2023, the spent caustic waste stream does not include spent caustic streams generated from sampling, maintenance activities, or shutdown purges. Beginning on July 6, 2023, the spent caustic streams generated from sampling, maintenance activities, or shutdown purges are included in the definition of spent caustic waste stream.

■ 7. Section 63.1084 is amended by revising the introductory text and adding paragraph (f) to read as follows:

§ 63.1084 What heat exchange systems are exempt from the requirements of this subpart?

Except as specified in paragraph (f) of this section, your heat exchange system is exempt from the requirements in §§ 63.1085 and 63.1086 if it meets any one of the criteria in paragraphs (a) through (e) of this section.

* * * * *

(f) Beginning no later than the compliance dates specified in § 63.1081(a), your heat exchange system is no longer exempt from the requirements in §§ 63.1085 and 63.1086 if it meets the criteria in paragraph (c) or (d) of this section; instead, your heat exchange system is exempt from the requirements in §§ 63.1085 and 63.1086 if it meets any one of the criteria in paragraph (a), (b), or (e) of this section.

■ 8. Section 63.1085 is amended by revising the introductory text and paragraphs (a) and (b) and by adding paragraphs (e) and (f) to read as follows:

§ 63.1085 What are the general requirements for heat exchange systems?

Unless you meet one of the requirements for exemptions in § 63.1084, you must meet the requirements in paragraphs (a) through (f) of this section.

(a) Except as specified in paragraph (e) of this section, you must monitor the cooling water for the presence of substances that indicate a leak according to § 63.1086(a) through (d).

(b) Except as specified in paragraph (f) of this section, if you detect a leak, then you must repair it according to § 63.1087(a) and (b) unless repair is delayed according to § 63.1088(a) through (c).

* * * * *

(e) Beginning no later than the compliance dates specified in § 63.1081(a), the requirements specified in § 63.1086(a) through (d) no longer apply; instead, you must monitor the cooling water for the presence of total strippable hydrocarbons that indicate a leak according to § 63.1086(e). At any time before the compliance dates specified in § 63.1081(a), you may choose to comply with the requirements in this paragraph in lieu of the requirements in paragraph (a) of this section.

(f) Beginning no later than the compliance dates specified in § 63.1081(a), the requirements specified in §§ 63.1087(a) and (b) and 63.1088(a) through (c), no longer apply; instead, if you detect a leak, then you must repair it according to § 63.1087(c) and (d), unless repair is delayed according to § 63.1088(d). At any time before the compliance dates specified in § 63.1081(a), you may choose to comply with the requirements in this paragraph in lieu of the requirements in paragraph (b) of this section.

■ 9. Section 63.1086 is amended by revising the introductory text and by adding paragraph (e) to read as follows:

§ 63.1086 How must I monitor for leaks to cooling water?

Except as specified in § 63.1085(e) and paragraph (e) of this section, you must monitor for leaks to cooling water by monitoring each heat exchange system according to the requirements of paragraph (a) of this section, monitoring each heat exchanger according to the requirements of paragraph (b) of this section, or monitoring a surrogate parameter according to the requirements of paragraph (c) of this section. Except as specified in § 63.1085(e) and paragraph (e) of this section, if you elect to comply with the requirements of paragraph (a) or (b) of this section, you may use alternatives in paragraph (d)(1) or (2) of this section for determining the mean entrance concentration.

* * * * *

(e) Beginning no later than the compliance dates specified in § 63.1081(a), you must perform monitoring to identify leaks of total strippable hydrocarbons from each heat exchange system subject to the requirements of this subpart according to the procedures in paragraphs (e)(1) through (5) of this section.

(1) *Monitoring locations for closed-loop recirculation heat exchange systems.* For each closed loop recirculating heat exchange system, you must collect and analyze a sample from the location(s) described in either paragraph (e)(1)(i) or (ii) of this section.

(i) Each cooling tower return line or any representative riser within the cooling tower prior to exposure to air for each heat exchange system.

(ii) Selected heat exchanger exit line(s), so that each heat exchanger or group of heat exchangers within a heat exchange system is covered by the selected monitoring location(s).

(2) *Monitoring locations for once-through heat exchange systems.* For each once-through heat exchange system, you must collect and analyze a sample from the location(s) described in paragraph (e)(2)(i) of this section. You may also elect to collect and analyze an additional sample from the location(s) described in paragraph (e)(2)(ii) of this section.

(i) Selected heat exchanger exit line(s), so that each heat exchanger or group of heat exchangers within a heat exchange system is covered by the selected monitoring location(s). The selected monitoring location may be at a point where discharges from multiple heat exchange systems are combined provided that the combined cooling water flow rate at the monitoring location does not exceed 165,000 gallons per minute.

(ii) The inlet water feed line for a once-through heat exchange system prior to any heat exchanger. If multiple heat exchange systems use the same water feed (*i.e.,* inlet water from the same primary water source), you may monitor at one representative location and use the monitoring results for that sampling location for all heat exchange systems that use that same water feed.

(3) *Monitoring method.* If you comply with the total strippable hydrocarbon concentration leak action level as specified in paragraph (e)(4) of this section, you must comply with the requirements in paragraph (e)(3)(i) of this section. If you comply with the total hydrocarbon mass emissions rate leak action level as specified in paragraph (e)(4) of this section, you must comply with the requirements in paragraphs (e)(3)(i) and (ii) of this section.

(i) You must determine the total strippable hydrocarbon concentration (in parts per million by volume (ppmv) as methane) at each monitoring location using the "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference, see § 63.14) using a flame ionization detector analyzer for on-site determination as described in Section 6.1 of the Modified El Paso Method.

(ii) You must convert the total strippable hydrocarbon concentration (in ppmv as methane) to a total hydrocarbon mass emissions rate (as methane) using the calculations in Section 7.0 of "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference—see § 63.14).

(4) *Monitoring frequency and leak action level.* For each heat exchange system, you must comply with the applicable monitoring frequency and leak action level, as defined in paragraphs (e)(4)(i) through (iii) of this section. The monitoring frequencies specified in paragraphs (e)(4)(i) through (iii) of this section also apply to the inlet water feed line for a once-through heat exchange system, if you elect to monitor the inlet water feed as provided in paragraph (e)(2)(ii) of this section.

(i) For each heat exchange system that is part of an ethylene production affected source that commenced construction or reconstruction on or before December 6, 2000, you must monitor quarterly using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, you may monitor quarterly using a leak action level defined as a total hydrocarbon mass emissions rate from the heat exchange system (as methane) of 0.18 kg/hr. If a leak is detected as specified in paragraph (e)(5) of this section, then you must monitor monthly until the leak has been repaired according to the requirements in § 63.1087(c) or (d). Once the leak has been repaired according to the requirements in § 63.1087(c) or (d), quarterly monitoring for the heat exchange system may resume.

(ii) For each heat exchange system that is part of an ethylene production affected source that commences construction or reconstruction after December 6, 2000 and on or before October 9, 2019, you must monitor at the applicable frequency specified in paragraph (e)(4)(ii)(A) or (B) of this section using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, you may monitor at the applicable frequency specified in paragraph (e)(4)(ii)(A) or (B) of this section using a leak action level defined as a total hydrocarbon mass emissions rate from the heat exchange system (as methane) of 0.18 kg/hr.

(A) If you have completed the initial weekly monitoring for 6-months of the heat exchange system as specified in § 63.1086(a)(2)(ii) or (b)(1)(ii) then you must monitor monthly. If a leak is detected as specified in paragraph (e)(5) of this section, then you must monitor weekly until the leak has been repaired according to the requirements in § 63.1087(c) or (d). Once the leak has been repaired according to the requirements in § 63.1087(c) or (d), monthly monitoring for the heat exchange system may resume.

(B) If you have not completed the initial weekly monitoring for 6-months of the heat exchange system as specified in § 63.1086(a)(2)(ii) or (b)(1)(ii), or if you elect to comply with paragraph (e) of this section rather than paragraphs (a) through (d) of this section upon startup, then you must initially monitor weekly for 6-months beginning upon startup and monitor monthly thereafter. If a leak is detected as specified in paragraph (e)(5) of this section, then you must monitor weekly until the leak has been repaired according to the requirements in § 63.1087(c) or (d). Once the leak has

been repaired according to the requirements in § 63.1087(c) or (d), monthly monitoring for the heat exchange system may resume.

(iii) For each heat exchange system that is part of an ethylene production affected source that commences construction or reconstruction after October 9, 2019, you must initially monitor weekly for 6-months beginning upon startup and monitor monthly thereafter using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, you may use a leak action level defined as a total hydrocarbon mass emissions rate from the heat exchange system (as methane) of 0.18 kg/hr if the heat exchange system has a recirculation rate of 10,000 gallons per minute or less. If a leak is detected as specified in paragraph (e)(5) of this section, then you must monitor weekly until the leak has been repaired according to the requirements in § 63.1087(c) or (d). Once the leak has been repaired according to the requirements in § 63.1087(c) or (d), monthly monitoring for the heat exchange system may resume.

(5) *Leak definition.* A leak is defined as described in paragraph (e)(5)(i) or (ii) of this section, as applicable.

(i) For once-through heat exchange systems for which the inlet water feed is monitored as described in paragraph (e)(2)(ii) of this section, a leak is detected if the difference in the measurement value of the sample taken from a location specified in paragraph (e)(2)(i) of this section and the measurement value of the corresponding sample taken from the location specified in paragraph (e)(2)(ii) of this section equals or exceeds the leak action level.

(ii) For all other heat exchange systems, a leak is detected if a measurement value of the sample taken from a location specified in paragraph (e)(1)(i), (ii), or (e)(2)(i) of this section equals or exceeds the leak action level.

■ 10. Section 63.1087 is amended by revising the introductory text and by adding paragraphs (c) and (d) to read as follows:

§ 63.1087 What actions must I take if a leak is detected?

Except as specified in § 63.1085(f) and paragraphs (c) and (d) of this section, if a leak is detected, you must comply with the requirements in paragraphs (a) and (b) of this section unless repair is delayed according to § 63.1088.

* * * * *

(c) Beginning no later than the compliance dates specified in § 63.1081(a), if a leak is detected using the methods described in § 63.1086(e), you must repair the leak to reduce the concentration or mass emissions rate to below the applicable leak action level as soon as practicable, but no later than 45 days after identifying the leak, except as specified in § 63.1088(d). Repair must include re-monitoring at the monitoring location where the leak was identified according to the method specified in § 63.1086(e)(3) to verify that the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is below the applicable leak action level. Repair may also include performing the additional monitoring in paragraph (d) of this section to verify that the total strippable hydrocarbon concentration is below the applicable leak action level. Actions that can be taken to achieve repair include but are not limited to:

(1) Physical modifications to the leaking heat exchanger, such as welding the leak or replacing a tube;

(2) Blocking the leaking tube within the heat exchanger;

(3) Changing the pressure so that water flows into the process fluid;

(4) Replacing the heat exchanger or heat exchanger bundle; or

(5) Isolating, bypassing, or otherwise removing the leaking heat exchanger from service until it is otherwise repaired.

(d) Beginning no later than the compliance dates specified in § 63.1081(a), if you detect a leak when monitoring a cooling tower return line according to § 63.1086(e)(1)(i), you may conduct additional monitoring of each heat exchanger or group of heat exchangers associated with the heat exchange system for which the leak was detected, as provided in § 63.1086(e)(1)(ii). If no leaks are detected when monitoring according to the requirements of § 63.1086(e)(1)(ii), the heat exchange system is considered to have met the repair requirements through re-monitoring of the heat exchange system, as provided in paragraph (c) of this section.

■ 11. Section 63.1088 is amended by revising the introductory text and by adding paragraph (d) to read as follows:

§ 63.1088 In what situations may I delay leak repair, and what actions must I take for delay of repair?

You may delay the repair of heat exchange systems if the leaking equipment is isolated from the process. At any time before the compliance dates specified in § 63.1081(a), you may also delay repair if repair is technically infeasible without a shutdown, and you meet one of the conditions in paragraphs (a) through (c) of this section. Beginning no later than the compliance dates specified in § 63.1081(a), paragraphs (a) through (c) of this section no longer apply; instead, you may delay repair if the conditions in paragraph (d) of this section are met.

* * * * *

(d) Beginning no later than the compliance dates specified in § 63.1081(a), you may delay repair when one of the conditions in paragraph (d)(1) or (2) of this section is met and the leak is less than the delay of repair action level specified in paragraph (d)(3) of this section. You must determine if a delay of repair is necessary as soon as practicable, but no later than 45 days after first identifying the leak.

(1) If the repair is technically infeasible without a shutdown and the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is initially and remains less than the delay of repair action level for all monitoring periods during the delay of repair, then you may delay repair until the next scheduled shutdown of the heat exchange system. If, during subsequent monitoring, the delay of repair action level is exceeded, then you must repair the leak within 30 days of the monitoring event in which the leak was equal to or exceeded the delay of repair action level.

(2) If the necessary equipment, parts, or personnel are not available and the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is initially and remains less than the delay of repair action level for all monitoring periods during the delay of repair, then you may delay the repair for a maximum of 120 calendar days. You must demonstrate that the necessary equipment, parts, or personnel were not available. If, during subsequent monitoring, the delay of repair action level is exceeded, then you must repair the leak within 30 days of the monitoring event in which the leak was equal to or exceeded the delay of repair action level.

(3) The delay of repair action level is a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, the delay of repair action level is a total hydrocarbon mass emissions rate (as methane) or 1.8 kg/hr. The delay of repair action level is assessed as described in paragraph (d)(3)(i) or (ii) of this section, as applicable.

(i) For once-through heat exchange systems for which the inlet water feed

is monitored as described in § 63.1086(e)(2)(ii), the delay of repair action level is exceeded if the difference in the measurement value of the sample taken from a location specified in § 63.1086(e)(2)(i) and the measurement value of the corresponding sample taken from the location specified in § 63.1086(e)(2)(ii) equals or exceeds the delay of repair action level.

(ii) For all other heat exchange systems, the delay of repair action level is exceeded if a measurement value of the sample taken from a location specified in § 63.1086(e)(1)(i) and (ii) or § 63.1086(e)(2)(i) equals or exceeds the delay of repair action level.

■ 12. Section 63.1089 is amended by revising paragraphs (d) and (e) to read as follows:

§ 63.1089 What records must I keep?

* * * * *

(d) At any time before the compliance dates specified in § 63.1081(a), you must keep documentation of delay of repair as specified in § 63.1088(a) through (c). Beginning no later than the compliance dates specified in § 63.1081(a), the requirement to keep documentation of delay of repair as specified in § 63.1088(a) through (c) no longer applies; instead, you must keep documentation of delay of repair as specified in paragraphs (d)(1) through (4) of this section.

(1) The reason(s) for delaying repair.

(2) A schedule for completing the repair as soon as practical.

(3) The date and concentration or mass emissions rate of the leak as first identified and the results of all subsequent monitoring events during the delay of repair.

(4) An estimate of the potential total hydrocarbon emissions from the leaking heat exchange system or heat exchanger for each required delay of repair monitoring interval following the applicable procedures in paragraphs (d)(4)(i) through (iii) of this section.

(i) If you comply with the total strippable hydrocarbon concentration leak action level, as specified in § 63.1086(e)(4), you must calculate the mass emissions rate by complying with the requirements of § 63.1086(e)(3)(ii) or by determining the mass flow rate of the cooling water at the monitoring location where the leak was detected. If the monitoring location is an individual cooling tower riser, determine the total cooling water mass flow rate to the cooling tower. Cooling water mass flow rates may be determined using direct measurement, pump curves, heat balance calculations, or other engineering methods. If you determine the mass flow rate of the cooling water, calculate the mass emissions rate by converting the stripping gas leak concentration (in ppmv as methane) to an equivalent liquid concentration, in parts per million by weight (ppmw), using equation 7–1 from "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference—see § 63.14) and multiply the equivalent liquid concentration by the mass flow rate of the cooling water.

(ii) For delay of repair monitoring intervals prior to repair of the leak, calculate the potential total hydrocarbon emissions for the leaking heat exchange system or heat exchanger for the monitoring interval by multiplying the mass emissions rate, determined in § 63.1086(e)(3)(ii) or paragraph (d)(4)(i) of this section, by the duration of the delay of repair monitoring interval. The duration of the delay of repair monitoring interval is the time period starting at midnight on the day of the previous monitoring event or at midnight on the day the repair would have been completed if the repair had not been delayed, whichever is later, and ending at midnight of the day the of the current monitoring event.

(iii) For delay of repair monitoring intervals ending with a repaired leak, calculate the potential total hydrocarbon emissions for the leaking heat exchange system or heat exchanger for the final delay of repair monitoring interval by multiplying the duration of the final delay of repair monitoring interval by the mass emissions rate determined for the last monitoring event prior to the re-monitoring event used to verify the leak was repaired. The duration of the final delay of repair monitoring interval is the time period starting at midnight of the day of the last monitoring event prior to re-monitoring to verify the leak was repaired and ending at the time of the re-monitoring event that verified that the leak was repaired.

(e) At any time before the compliance dates specified in § 63.1081(a), if you validate a 40 CFR part 136 method for the HAP listed in Table 1 to this subpart according to the procedures in appendix D to this part, then you must keep a record of the test data and calculations used in the validation. On the compliance dates specified in § 63.1081(a), this requirement no longer applies.

■ 13. Section 63.1090 is amended by revising the introductory text and by adding paragraph (f) to read as follows:

§ 63.1090 What reports must I submit?

If you delay repair for your heat exchange system, you must report the delay of repair in the semiannual report required by § 63.1110(e). If the leak remains unrepaired, you must continue to report the delay of repair in semiannual reports until you repair the leak. Except as provided in paragraph (f) of this section, you must include the information in paragraphs (a) through (e) of this section in the semiannual report.

* * * * *

(f) For heat exchange systems subject to § 63.1085(e) and (f), Periodic Reports must include the information specified in paragraphs (f)(1) through (5) of this section, in lieu of the information specified in paragraphs (a) through (e) of this section.

(1) The number of heat exchange systems at the plant site subject to the monitoring requirements in § 63.1085(e) and (f) during the reporting period.

(2) The number of heat exchange systems subject to the monitoring requirements in § 63.1085(e) and (f) at the plant site found to be leaking during the reporting period.

(3) For each monitoring location where the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate was determined to be equal to or greater than the applicable leak definitions specified in § 63.1086(e)(5) during the reporting period, identification of the monitoring location (*e.g.,* unique monitoring location or heat exchange system ID number), the measured total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate, the date the leak was first identified, and, if applicable, the date the source of the leak was identified;

(4) For leaks that were repaired during the reporting period (including delayed repairs), identification of the monitoring location associated with the repaired leak, the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate measured during re-monitoring to verify repair, and the re-monitoring date (*i.e.,* the effective date of repair); and

(5) For each delayed repair, identification of the monitoring location associated with the leak for which repair is delayed, the date when the delay of repair began, the date the repair is expected to be completed (if the leak is not repaired during the reporting period), the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate and date of each monitoring event conducted on the delayed repair during the reporting period, and an estimate of the potential total hydrocarbon emissions over the reporting period associated with the delayed repair.

■ 14. Section 63.1095 is amended by:

■ a. Revising paragraph (a)(1) introductory text;

■ b. Adding paragraph (a)(1)(vi);

■ c. Revising paragraphs (a)(3), (b) introductory text, and (b)(1); and

■ d. Adding paragraph (b)(3).

The revisions and additions read as follows:

§ 63.1095 What specific requirements must I comply with?

* * * * *

(a) * * *

(1) Route the continuous butadiene stream to a treatment process or wastewater treatment system used to treat benzene waste streams that complies with the standards specified in 40 CFR 61.348. Comply with the requirements of 40 CFR part 61, subpart FF; with the changes in Table 2 to this subpart, and as specified in paragraphs (a)(1)(i) through (vi) of this section.

* * * * *

(vi) Beginning no later than the compliance dates specified in § 63.1081(b), if you use a steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point flare to comply with 40 CFR part 61, subpart FF, then you must comply with the requirements § 63.1103(e)(4) in lieu of 40 CFR 61.349(a)(2)(iii) and (d), 40 CFR 61.354(c)(3), 40 CFR 61.356(f)(2)(i)(D) and (j)(7), and 40 CFR 61.357(d)(7)(iv)(F).

* * * * *

(3) Before July 6, 2023, if the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), comply with the requirements of this section at all times except during periods of startup, shutdown, and malfunction, if the startup, shutdown, or malfunction precludes the ability of the affected source to comply with the requirements of this section and the owner or operator follows the provisions for periods of startup, shutdown, and malfunction, as specified in § 63.1111. Beginning on July 6, 2023, if the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), you must comply with the requirements of this section at all times.

(b) *Waste streams that contain benzene.* For waste streams that contain benzene, you must comply with the requirements of 40 CFR part 61, subpart FF, except as specified in Table 2 to this subpart and paragraph (b)(3) of this section. You must manage and treat waste streams that contain benzene as specified in either paragraph (b)(1) or (2) of this section.

(1) If the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), manage and treat spent caustic waste streams and dilution steam blowdown waste streams according to 40 CFR 61.342(c)(1) through (c)(3)(i). Before July 6, 2023, the requirements of this paragraph (b)(1) shall apply at all times except during periods of startup, shutdown, and malfunction, if the startup, shutdown, or malfunction precludes the ability of the affected source to comply with the requirements of this section and the owner or operator follows the provisions for periods of startup, shutdown, and malfunction, as specified in § 63.1111. Beginning on July 6, 2023, the requirements of this paragraph (b)(1) shall apply at all times.

* * * * *

(3) Beginning no later than the compliance dates specified in § 63.1081(b), if you use a steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point flare to comply with 40 CFR part 61, subpart FF, then you must comply with the requirements of § 63.1103(e)(4) in lieu of 40 CFR 61.349(a)(2)(iii) and (d), 40 CFR 61.354(c)(3), 40 CFR 61.356(f)(2)(i)(D) and (j)(7), and 40 CFR 61.357(d)(7)(iv)(F).

■ 15. Table 2 to subpart XX of part 63 is amended by revising the first three entries to row 1 and the first two entries to row 2 to read as follows:

TABLE 2 TO SUBPART XX OF PART 63—REQUIREMENTS OF 40 CFR PART 61, SUBPART FF, NOT INCLUDED IN THE REQUIREMENTS FOR THIS SUBPART AND ALTERNATE REQUIREMENTS

If the total annual benzene quantity for waste from your facility is * * *	Do not comply with:	Instead, comply with:
1. Less than 10 Mg/yr	40 CFR 61.340	§ 63.1093.
	40 CFR 61.342(c)(3)(ii), (d), and (e)	There is no equivalent requirement.
	40 CFR 61.342(f)	§ 63.1096.
* *	* * *	* *
2. Greater than or equal to 10 Mg/yr	40 CFR 61.340	§ 63.1093.
	40 CFR 61.342(f)	§ 63.1096.
* *	* * *	* *

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

■ 16. Section 63.1100 is amended by:

■ a. Revising the heading to Table 1 to § 63.1100(a);

■ b. Revising the entries for "Carbon Black Production," "Cyanide Chemicals Manufacturing," "Ethylene Production," and "Spandex Production";

■ c. Revising footnote c to Table 1 to § 63.1100(a);

■ d. Revising paragraphs (b), (g) introductory text, and (g)(4)(ii);

■ e. Adding paragraph (g)(4)(iii);

■ f. Revising paragraph (g)(5); and

■ g. Adding paragraph (g)(7).

The revisions and additions read as follows:

§ 63.1100 Applicability.

(a) * * *

TABLE 1 TO § 63.1100(a)—SOURCE CATEGORY MACT [a] APPLICABILITY

Source category	Storage vessels	Process vents	Transfer racks	Equipment leaks	Wastewater streams	Other	Source category MACT requirements
* *		*	*		*	*	*
Carbon Black Production	No	Yes	No	No	No	No	§ 63.1103(f).
Cyanide Chemicals Manufacturing.	Yes	Yes	Yes	Yes	Yes	No	§ 63.1103(g).
Ethylene Production	Yes	Yes	Yes	Yes	Yes	Yes [c]	§ 63.1103(e).
* *		*	*		*	*	*
Spandex Production	Yes	Yes	No	No	No	Yes [d]	§ 63.1103(h).

[a] Maximum achievable control technology.
[b] Fiber spinning lines using spinning solution or suspension containing acrylonitrile.
[c] Heat exchange systems as defined in § 63.1082(b).
[d] Fiber spinning lines.

(b) *Subpart A requirements.* The following provisions of subpart A of this part (General Provisions), §§ 63.1 through 63.5, and §§ 63.12 through 63.15, apply to owners or operators of affected sources subject to this subpart. Beginning no later than the compliance dates specified in § 63.1102(c), for ethylene production affected sources, §§ 63.7(a)(4), (c), (e)(4), and (g)(2), and 63.10(b)(2)(vi) also apply.

* * * * *

(g) *Overlap with other regulations.* Paragraphs (g)(1) through (7) of this section specify the applicability of this subpart YY emission point requirements when other rules may apply. Where this subpart YY allows an owner or operator an option to comply with one or another regulation to comply with this subpart YY, an owner or operator must report which regulation they choose to comply with in the Notification of Compliance Status report required by § 63.1110(a)(4).

(4) * * *

(ii) After the compliance dates specified in § 63.1102, equipment that must be controlled according to this subpart YY and subpart H of this part is in compliance with the equipment leak requirements of this subpart YY if it complies with either set of requirements. For ethylene production affected sources, the requirement in § 63.1103(e)(9)(i) also applies. The owner or operator must specify the rule with which they will comply in the Notification of Compliance Status report required by § 63.1110(a)(4).

(iii) Beginning no later than the compliance dates specified in § 63.1102(c), for ethylene production affected sources, equipment that must be controlled according to this subpart YY and subpart VVa of 40 CFR part 60 is required only to comply with the equipment leak requirements of this subpart, except the owner or operator must also comply with the calibration drift assessment requirements specified at 40 CFR 60.485a(b)(2) if they are required to do so in subpart VVa of 40 CFR part 60. When complying with the calibration drift assessment requirements at 40 CFR 60.485a(b)(2), the requirement at 40 CFR 60.486a(e)(8)(v) to record the instrument reading for each scale used applies.

(5) *Overlap of this subpart YY with other regulations for wastewater for source categories other than ethylene production.* (i) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a wastewater stream that is subject to the wastewater requirements of this subpart and the wastewater requirements of subparts F, G, and H of this part (collectively known as the "HON") shall be deemed to be in compliance with the requirements of this subpart if it complies with either set of requirements. In any instance where a source subject to this subpart is collocated with a Synthetic Organic Chemical Manufacturing Industry (SOCMI) source, and a single wastewater treatment facility treats both Group 1 wastewaters and wastewater residuals from the source subject to this subpart and wastewaters from the SOCMI source, a certification by the treatment facility that they will manage and treat the waste in conformity with the specific control requirements set forth in §§ 63.133 through 63.147 will also be deemed sufficient to satisfy the certification requirements for wastewater treatment under this subpart.

* * * * *

(7) *Overlap of this subpart YY with other regulations for flares for the ethylene production source category.* (i) Beginning no later than the compliance dates specified in § 63.1102(c), flares that are subject to 40 CFR 60.18 or § 63.11 and used as a control device for an emission point subject to the requirements in Table 7 to § 63.1103(e) are required to comply only with § 63.1103(e)(4). At any time before the compliance dates specified in § 63.1102(c), flares that are subject to 40 CFR 60.18 or § 63.11 and elect to comply with § 63.1103(e)(4) are required to comply only with § 63.1103(e)(4).

(ii) Beginning no later than the compliance dates specified in § 63.1102(c), flares subject to § 63.987 and used as a control device for an emission point subject to the requirements in Table 7 to § 63.1103(e) are only required to comply with § 63.1103(e)(4).

(iii) Beginning no later than the compliance dates specified in § 63.1102(c), flares subject to the requirements in 40 CFR part 63, subpart CC and used as a control device for an emission point subject to the requirements in Table 7 to § 63.1103(e) are only required to comply with the flare requirements in 40 CFR part 63, subpart CC. This paragraph does not apply to multi-point pressure assisted flares.

■ 17. Section 63.1101 is amended by revising the definitions of "Pressure relief device or valve" and "Shutdown" to read as follows:

§ 63.1101 Definitions.

* * * * *

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices. This definition does not apply to ethylene production affected sources.

* * * * *

Shutdown means the cessation of operation of an affected source or equipment that is used to comply with this subpart, or the emptying and degassing of a storage vessel. For the purposes of this subpart, shutdown includes, but is not limited to, periodic maintenance, replacement of equipment, or repair. Shutdown does not include the routine rinsing or washing of equipment in batch operation between batches. Shutdown includes the decoking of ethylene cracking furnaces.

* * * * *

■ 18. Section 63.1102 is amended by revising paragraph (a) introductory text and adding paragraph (c) to read as follows:

§ 63.1102 Compliance schedule.

(a) *General requirements.* Affected sources, as defined in § 63.1103(a)(1)(i) for acetyl resins production, § 63.1103(b)(1)(i) for acrylic and modacrylic fiber production, § 63.1103(c)(1)(i) for hydrogen fluoride production, § 63.1103(d)(1)(i) for polycarbonate production, § 63.1103(e)(1)(i) for ethylene production, § 63.1103(f)(1)(i) for carbon black production, § 63.1103(g)(1)(i) for cyanide chemicals manufacturing, or § 63.1103(h)(1)(i) for spandex production shall comply with the appropriate provisions of this subpart and the subparts referenced by this subpart YY according to the schedule in paragraph (a)(1) or (2) of this section, as appropriate, except as provided in paragraph (b) of this section. Affected sources in ethylene production also must comply according to paragraph (c) of this section. Proposal and effective dates are specified in Table 1 to this section.

* * * * *

(c) All ethylene production affected sources that commenced construction or reconstruction on or before October 9, 2019, must be in compliance with the requirements listed in paragraphs (c)(1) through (13) of this section upon initial startup or July 6, 2023, whichever is later. All ethylene production affected sources that commenced construction or reconstruction after October 9, 2019, must be in compliance with the requirements listed in paragraphs (c)(1) through (13) of this section upon initial startup, or July 6, 2020, whichever is later.

(1) Overlap requirements specified in § 63.1100(g)(4)(iii) and (7), if applicable.

(2) The storage vessel requirements specified in paragraphs (b)(1)(iii) and (c)(1)(ii) of Table 7 to § 63.1103(e), and the degassing requirements specified in § 63.1103(e)(10).

(3) The ethylene process vent requirements specified in paragraph (d)(1)(ii) of Table 7 to § 63.1103(e).

(4) The transfer rack requirements specified in § 63.1105(a)(5).

(5) The equipment requirements specified in paragraph (f)(1)(ii) of Table 7 to § 63.1103(e) and § 63.1107(h).

(6) The bypass line requirements specified in paragraph (i) of Table 7 to § 63.1103(e), and § 63.1103(e)(6).

(7) The decoking requirements for ethylene cracking furnaces specified in paragraph (j) of Table 7 to § 63.1103(e), and § 63.1103(e)(7) and (8).

(8) The flare requirements specified in § 63.1103(e)(4).

(9) The maintenance vent requirements specified in § 63.1103(e)(5).

(10) The requirements specified in § 63.1103(e)(9).

(11) The requirements in § 63.1108(a)(4)(i), (b)(1)(ii), (b)(2), and (b)(4)(ii)(B).

(12) The recordkeeping requirements specified in § 63.1109(e) through (i).

(13) The reporting requirements specified in § 63.1110(a)(10), (d)(1)(iv) and (v), and (e)(4) through (8).

* * * * *

■ 19. Section 63.1103 is amended:

■ a. By revising the definition of "In organic hazardous air pollutant or in organic HAP service" in paragraph (b)(2);

■ b. By revising paragraphs (e)(1)(i) introductory text, (e)(1)(i)(F), and (e)(1)(ii)(J);

■ c. In paragraph (e)(2) by;

■ i. Adding in alphabetical order a definition for "Decoking operation";

■ ii. Revising the definition of "Ethylene process vent";

■ iii. Adding in alphabetical order a definition for "Force majeure event";

■ iv. Removing the definition of "Heat exchange system";

■ v. Adding in alphabetical order definitions for "Periodically discharged," "Pressure-assisted multi-point flare," "Pressure relief device," "Radiant tube(s)," and "Relief valve";

■ d. By revising paragraph (e)(3);

■ e. By adding paragraphs (e)(4) through (10); and

■ e. By revising Table 7 to § 63.1103(e).

The revisions and additions read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(b) * * *

(2) * * *

In organic hazardous air pollutant or in organic HAP service means, for acrylic and modacrylic fiber production affected sources, that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 10 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

* * * * *

(e) * * *

(1) * * *

(i) *Affected source.* For the ethylene production (as defined in paragraph (e)(2) of this section) source category, the affected source comprises all emission points listed in paragraphs (e)(1)(i)(A) through (G) of this section that are associated with an ethylene production unit that is located at a major source, as defined in section 112(a) of the Act.

* * * * *

(F) All heat exchange systems (as defined in § 63.1082(b)) associated with an ethylene production unit.

* * * * *

(ii) * * *

(J) Air emissions from all ethylene cracking furnaces.

* * * * *

(2) * * *

Decoking operation means the coke combustion activity that occurs inside the radiant tube(s) in the ethylene cracking furnace firebox. Coke combustion activities during decoking can also occur in other downstream equipment such as the process gas outlet piping and transfer line exchangers or quench points.

Ethylene process vent means a gas stream with a flow rate greater than 0.005 standard cubic meters per minute containing greater than 20 parts per million by volume HAP that is continuously discharged during operation of an ethylene production unit. On and after July 6, 2023, ethylene process vent means a gas stream with a flow rate greater than 0.005 standard cubic meters per minute containing greater than 20 parts per million by volume HAP that is continuously or periodically discharged during operation of an ethylene production unit. Ethylene process vents are gas streams that are discharged to the atmosphere (or the point of entry into a control device, if any) either directly or after passing through one or more recovery devices. Ethylene process vents do not include:

(A) Pressure relief device discharges;

(B) Gaseous streams routed to a fuel gas system, including any flares using fuel gas, of which less than 50 percent

of the fuel gas is derived from an ethylene production unit;

(C) Gaseous streams routed to a fuel gas system whereby any flares using fuel gas, of which 50 percent or more of the fuel gas is derived from an ethylene production unit, comply with § 63.1103(e)(4) beginning no later than the compliance dates specified in § 63.1102(c);

(D) Leaks from equipment regulated under this subpart;

(E) Episodic or nonroutine releases such as those associated with startup, shutdown, and malfunction until July 6, 2023;

(F) In situ sampling systems (online analyzers) until July 6, 2023; and

(G) Coke combustion emissions from decoking operations beginning no later than the compliance dates specified in § 63.1102(c).

* * * * *

Force majeure event means a release of HAP, either directly to the atmosphere from a pressure relief device or discharged via a flare, that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the ethylene production unit (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the ethylene production unit that impacts the ethylene production unit's ability to operate.

* * * * *

Periodically discharged means gas stream discharges that are intermittent for which the total organic HAP concentration is greater than 20 parts per million by volume and total volatile organic compound emissions are 50 pounds per day or more. These intermittent discharges are associated with routine operations, maintenance activities, startups, shutdowns, malfunctions, or process upsets and do not include pressure relief device discharges or discharges classified as maintenance vents.

Pressure-assisted multi-point flare means a flare system consisting of multiple flare burners in staged arrays whereby the vent stream pressure is used to promote mixing and smokeless operation at the flare burner tips. Pressure-assisted multi-point flares are designed for smokeless operation at velocities up to Mach = 1 conditions (*i.e.,* sonic conditions), can be elevated or at ground level, and typically use cross-lighting for flame propagation to combust any flare vent gases sent to a particular stage of flare burners.

Pressure relief device means a valve, rupture disk, or similar device used only to release an unplanned, nonroutine discharge of gas from process equipment in order to avoid safety hazards or equipment damage. A pressure relief device discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause. Such devices include conventional, spring-actuated relief valves, balanced bellows relief valves, pilot-operated relief valves, rupture disks, and breaking, buckling, or shearing pin devices. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Radiant tube(s) means any portion of the tube coil assembly located within the ethylene cracking furnace firebox whereby a thermal cracking reaction of hydrocarbons (in the presence of steam) occurs. Hydrocarbons and steam pass through the radiant tube(s) of the ethylene cracking furnace during normal operation and coke is removed from the inside of the radiant tube(s) during decoking operation.

Relief valve means a type of pressure relief device that is designed to re-close after the pressure relief.

* * * * *

(3) *Requirements.* The owner or operator must control organic HAP emissions from each affected source emission point by meeting the applicable requirements specified in Table 7 to this section. An owner or operator must perform the applicability assessment procedures and methods for process vents specified in § 63.1104, except for paragraphs (d), (g), (h) through (j), (l)(1), and (n). An owner or operator must perform the applicability assessment procedures and methods for equipment leaks specified in § 63.1107. General compliance, recordkeeping, and reporting requirements are specified in § § 63.1108 through 63.1112. Before July 6, 2023, minimization of emissions from startup, shutdown, and malfunctions must be addressed in the startup, shutdown, and malfunction plan required by § 63.1111; the plan must also establish reporting and recordkeeping of such events. A startup, shutdown, and malfunction plan is not required on and after July 6, 2023 and the requirements specified in § 63.1111 no longer apply; however, for historical compliance purposes, a copy of the plan must be retained and available on-site for five years after July 6, 2023. Except as specified in paragraph (e)(4)(i) of this section, procedures for approval of alternate means of emission limitations are specified in § 63.1113.

(4) *Flares.* Beginning no later than the compliance dates specified in § 63.1102(c), if a steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point flare is used as a control device for an emission point subject to the requirements in Table 7 to this section, then the owner or operator must meet the applicable requirements for flares as specified in §§ 63.670 and 63.671 of subpart CC, including the provisions in Tables 12 and 13 to subpart CC of this part, except as specified in paragraphs (e)(4)(i) through (xiv) of this section. This requirement also applies to any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from an ethylene production unit, being used to control an emission point subject to the requirements in Table 7 of this section. For purposes of compliance with this paragraph, the following terms are defined in § 63.641 of subpart CC: Assist air, assist steam, center steam, combustion zone, combustion zone gas, flare, flare purge gas, flare supplemental gas, flare sweep gas, flare vent gas, lower steam, net heating value, perimeter assist air, pilot gas, premix assist air, total steam, and upper steam.

(i) The owner or operator may elect to comply with the alternative means of emissions limitation requirements specified in of § 63.670(r) of subpart CC in lieu of the requirements in § 63.670(d) through (f) of subpart CC, as applicable. However, instead of complying with § 63.670(r)(3) of subpart CC, the owner or operator must submit the alternative means of emissions limitation request following the requirements in § 63.1113.

(ii) Instead of complying with § 63.670(o)(2)(i) of subpart CC, the owner or operator must develop and implement the flare management plan no later than the compliance dates specified in § 63.1102(c).

(iii) Instead of complying with § 63.670(o)(2)(iii) of subpart CC, if required to develop a flare management plan and submit it to the Administrator, then the owner or operator must also submit all versions of the plan in portable document format (PDF) to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). If you claim some of the information in your flare management plan is confidential business information (CBI), submit a version with the CBI omitted via CEDRI. A complete plan, including information claimed to

be CBI and clearly marked as CBI, must be mailed to the following address: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (E143–01), Attention: Ethylene Production Sector Lead, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711.

(iv) Section 63.670(o)(3)(ii) of subpart CC and all references to § 63.670(o)(3)(ii) of subpart CC do not apply. Instead, the owner or operator must comply with the maximum flare tip velocity operating limit at all times.

(v) Substitute "ethylene production unit" for each occurrence of "petroleum refinery."

(vi) Each occurrence of "refinery" does not apply.

(vii) Except as specified in paragraph (e)(4)(vii)(G) of this section, if a pressure-assisted multi-point flare is used as a control device for an emission point subject to the requirements in Table 7 to this section, then the owner or operator must comply with the requirements specified in paragraphs (e)(4)(vii)(A) through (F) of this section.

(A) The owner or operator is not required to comply with the flare tip velocity requirements in § 63.670(d) and (k) of subpart CC;

(B) The owner or operator must substitute "800" for each occurrence of "270" in § 63.670(e) of subpart CC;

(C) The owner or operator must determine the 15-minute block average NHVvg using only the direct calculation method specified in § 63.670(l)(5)(ii) of subpart CC;

(D) Instead of complying with § 63.670(b) and (g) of subpart CC, if a pressure-assisted multi-point flare uses cross-lighting on a stage of burners rather than having an individual pilot flame on each burner, the owner or operator must operate each stage of the pressure-assisted multi-point flare with a flame present at all times when regulated material is routed to that stage of burners. Each stage of burners that cross-lights in the pressure-assisted multi-point flare must have at least two pilots with at least one continuously lit and capable of igniting all regulated material that is routed to that stage of burners. Each 15-minute block during which there is at least one minute where no pilot flame is present on a stage of burners when regulated material is routed to that stage is a deviation of the standard. Deviations in different 15-minute blocks from the same event are considered separate deviations. The pilot flame(s) on each stage of burners that use cross-lighting must be continuously monitored by a thermocouple or any other equivalent device used to detect the presence of a flame;

(E) Unless the owner or operator of a pressure-assisted multi-point flare chooses to conduct a cross-light performance demonstration as specified in this paragraph, the owner or operator must ensure that if a stage of burners on the flare uses cross-lighting, that the distance between any two burners in series on that stage is no more than 6 feet when measured from the center of one burner to the next burner. A distance greater than 6 feet between any two burners in series may be used provided the owner or operator conducts a performance demonstration that confirms the pressure-assisted multi-point flare will cross-light a minimum of three burners and the spacing between the burners and location of the pilot flame must be representative of the projected installation. The compliance demonstration must be approved by the permitting authority and a copy of this approval must be maintained onsite. The compliance demonstration report must include: A protocol describing the test methodology used, associated test method QA/QC parameters, the waste gas composition and NHVcz of the gas tested, the velocity of the waste gas tested, the pressure-assisted multi-point flare burner tip pressure, the time, length, and duration of the test, records of whether a successful cross-light was observed over all of the burners and the length of time it took for the burners to cross-light, records of maintaining a stable flame after a successful cross-light and the duration for which this was observed, records of any smoking events during the cross-light, waste gas temperature, meteorological conditions (*e.g.,* ambient temperature, barometric pressure, wind speed and direction, and relative humidity), and whether there were any observed flare flameouts; and

(F) The owner or operator of a pressure-assisted multi-point flare must install and operate pressure monitor(s) on the main flare header, as well as a valve position indicator monitoring system for each staging valve to ensure that the flare operates within the proper range of conditions as specified by the manufacturer. The pressure monitor must meet the requirements in Table 13 to subpart CC of this part.

(G) If a pressure-assisted multi-point flare is operating under the requirements of an approved alternative means of emission limitations, the owner or operator shall either continue to comply with the terms of the alternative means of emission limitations or comply with the provisions in paragraphs (e)(4)(vii)(A) through (F) of this section.

(viii) If an owner or operator chooses to determine compositional analysis for net heating value with a continuous process mass spectrometer, the owner or operator must comply with the requirements specified in paragraphs (e)(4)(viii)(A) through (G) of this section.

(A) The owner or operator must meet the requirements in § 63.671(e)(2). The owner or operator may augment the minimum list of calibration gas components found in § 63.671(e)(2) with compounds found during a pre-survey or known to be in the gas through process knowledge.

(B) Calibration gas cylinders must be certified to an accuracy of 2 percent and traceable to National Institute of Standards and Technology (NIST) standards.

(C) For unknown gas components that have similar analytical mass fragments to calibration compounds, the owner or operator may report the unknowns as an increase in the overlapped calibration gas compound. For unknown compounds that produce mass fragments that do not overlap calibration compounds, the owner or operator may use the response factor for the nearest molecular weight hydrocarbon in the calibration mix to quantify the unknown component's NHV_{vg}.

(D) The owner or operator may use the response factor for n-pentane to quantify any unknown components detected with a higher molecular weight than n-pentane.

(E) The owner or operator must perform an initial calibration to identify mass fragment overlap and response factors for the target compounds.

(F) The owner or operator must meet applicable requirements in Performance Specification 9 of 40 CFR part 60, appendix B, for continuous monitoring system acceptance including, but not limited to, performing an initial multi-point calibration check at three concentrations following the procedure in Section 10.1 and performing the periodic calibration requirements listed for gas chromatographs in Table 13 to subpart CC of this part, for the process mass spectrometer. The owner or operator may use the alternative sampling line temperature allowed under Net Heating Value by Gas Chromatograph in Table 13 to subpart CC of this part.

(G) The average instrument calibration error (CE) for each calibration compound at any calibration concentration must not differ by more than 10 percent from the certified cylinder gas value. The CE for each

component in the calibration blend must be calculated using the following equation:

$$CE = \frac{C_m - C_a}{C_a} x\ 100$$

Where:

C_m = Average instrument response (ppm)
C_a = Certified cylinder gas value (ppm)

(ix) An owner or operator using a gas chromatograph or mass spectrometer for compositional analysis for net heating value may choose to use the CE of $NHV_{measured}$ versus the cylinder tag value NHV as the measure of agreement for daily calibration and quarterly audits in lieu of determining the compound-specific CE. The CE for NHV at any calibration level must not differ by more than 10 percent from the certified cylinder gas value. The CE for must be calculated using the following equation:

$$CE = \frac{NHV_{measured} - NHV_a}{NHV_a} x\ 100$$

Where:

$NHV_{measured}$ = Average instrument response (Btu/scf)
NHV_a = Certified cylinder gas value (Btu/scf)

(x) Instead of complying with § 63.670(p) of subpart CC, the owner or operator must keep the flare monitoring records specified in § 63.1109(e).

(xi) Instead of complying with § 63.670(q) of subpart CC, the owner or operator must comply with the reporting requirements specified in § 63.1110(d) and (e)(4).

(xii) When determining compliance with the pilot flame requirements specified in § 63.670(b) and (g), substitute "pilot flame or flare flame" for each occurrence of "pilot flame."

(xiii) When determining compliance with the flare tip velocity and combustion zone operating limits specified in § 63.670(d) and (e), the requirement effectively applies starting with the 15-minute block that includes a full 15 minutes of the flaring event. The owner or operator is required to demonstrate compliance with the velocity and NHVcz requirements starting with the block that contains the fifteenth minute of a flaring event. The owner or operator is not required to demonstrate compliance for the previous 15-minute block in which the event started and contained only a fraction of flow.

(xiv) In lieu of meeting the requirements in §§ 63.670 and 63.671 of subpart CC, an owner or operator may submit a request to the Administrator for approval of an alternative test method in accordance with § 63.7(f). The alternative test method must be able to demonstrate on an ongoing basis at least once every 15-minutes that the flare meets 96.5% combustion efficiency and provide a description of the alternative recordkeeping and reporting that would be associated with the alternative test method. The alternative test method request may also include a request to use the alternative test method in lieu of the pilot or flare flame monitoring requirements of 63.670(g).

(5) *Maintenance vents.* Unless an extension is requested in accordance with the provisions in § 63.6(i) of subpart A, beginning no later than the compliance dates specified in § 63.1102(c), an owner or operator may designate an ethylene process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed, or placed into service. The owner or operator must comply with the applicable requirements in paragraphs (e)(5)(i) through (iii) of this section for each maintenance vent.

(i) Prior to venting to the atmosphere, remove process liquids from the equipment as much as practical and depressurize the equipment to either: A flare meeting the requirements specified in paragraph (e)(4) of this section, or a non-flare control device meeting the requirements specified in § 63.982(c)(2) of subpart SS, until one of the following conditions, as applicable, is met.

(A) The vapor in the equipment served by the maintenance vent has a lower explosive limit (LEL) of less than 10 percent.

(B) If there is no ability to measure the LEL of the vapor in the equipment based on the design of the equipment, the pressure in the equipment served by the maintenance vent is reduced to 5 pounds per square inch gauge (psig) or less. Upon opening the maintenance vent, active purging of the equipment cannot be used until the LEL of the vapors in the maintenance vent (or inside the equipment if the maintenance is a hatch or similar type of opening) is less than 10 percent.

(C) The equipment served by the maintenance vent contains less than 50 pounds of total volatile organic compounds (VOC).

(D) If, after applying best practices to isolate and purge equipment served by a maintenance vent, none of the applicable criterion in paragraphs (e)(5)(i)(A) through (C) of this section can be met prior to installing or removing a blind flange or similar equipment blind, then the pressure in the equipment served by the maintenance vent must be reduced to 2 psig or less before installing or removing the equipment blind. During installation or removal of the equipment blind, active purging of the equipment may be used provided the equipment pressure at the location where purge gas is introduced remains at 2 psig or less.

(ii) Except for maintenance vents complying with the alternative in paragraph (e)(5)(i)(C) of this section, the owner or operator must determine the LEL or, if applicable, equipment pressure using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(iii) For maintenance vents complying with the alternative in paragraph (e)(5)(i)(C) of this section, the owner or operator must determine mass of VOC in the equipment served by the maintenance vent based on the equipment size and contents after considering any contents drained or purged from the equipment. Equipment size may be determined from equipment design specifications. Equipment contents may be determined using process knowledge.

(6) *Bypass lines.* Beginning on the compliance dates specified in § 63.1102(c), the use of a bypass line at any time on a closed vent system to divert emissions subject to the requirements in Table 7 to § 63.1103(e) to the atmosphere or to a control device not meeting the requirements specified in Table 7 of this subpart is an emissions standards violation. If the owner or operator is subject to the bypass monitoring requirements of § 63.983(a)(3) of subpart SS, then the owner or operator must continue to comply with the requirements in § 63.983(a)(3) of subpart SS and the recordkeeping and reporting requirements in §§ 63.998(d)(1)(ii) and 63.999(c)(2) of subpart SS, in addition to paragraph (e)(9) of this section, the

recordkeeping requirements specified in § 63.1109(g), and the reporting requirements specified in § 63.1110(e)(6). For purposes of compliance with this paragraph, the phrase "Except for equipment needed for safety purposes such as pressure relief devices, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines" in § 63.983(a)(3) does not apply; instead, the exemptions specified in paragraph (e)(6)(i) and (ii) of this section apply.

(i) Except for pressure relief devices subject to 40 CFR 63.1107(h)(4), equipment such as low leg drains and equipment subject to the requirements specified in paragraph (f) of Table 7 to § 63.1103(e) are not subject to this paragraph (e)(6) of this section.

(ii) Open-ended valves or lines that use a cap, blind flange, plug, or second valve and follow the requirements specified in § 60.482–6(a)(2), (b), and (c) or follow requirements codified in another regulation that are the same as § 60.482–6(a)(2), (b), and (c) are not subject to this paragraph (e)(6) of this section.

(7) *Decoking operation standards for ethylene cracking furnaces.* Beginning no later than the compliance dates specified in § 63.1102(c), the owner or operator must comply with paragraph (e)(7)(i) of this section and also use at least two of the control measures specified in paragraphs (e)(7)(ii) through (v) of this section to minimize coke combustion emissions from the decoking of the radiant tube(s) in each ethylene cracking furnace.

(i) During normal operations, conduct daily inspections of the firebox burners and repair all burners that are impinging on the radiant tube(s) as soon as practical, but not later than 1 calendar day after the flame impingement is found. The owner or operator may delay burner repair beyond 1 calendar day using the procedures specified in paragraphs (e)(7)(i)(A) and (B) of this section provided the repair cannot be completed during normal operations, the burner cannot be shutdown without significantly impacting the furnace heat distribution and firing rate, and action is taken to reduce flame impingement as much as possible during continued operation. An inspection may include, but is not limited to: visual inspection of the radiant tube(s) for localized bright spots (this may be confirmed with a temperature gun), use of luminescent powders injected into the burner to illuminate the flame pattern, or identifying continued localized coke build-up that causes short runtimes between decoking cycles. A repair may include, but is not limited to: Taking the burner out of service, replacing the burner, adjusting the alignment of the burner, adjusting burner configuration, making burner air corrections, repairing a malfunction of the fuel liquid removal equipment, or adding insulation around the radiant tube(s).

(A) If a shutdown for repair would cause greater emissions than the potential emissions from delaying repair, repair must be completed following the next planned decoking operation (and before returning the ethylene cracking furnace back to normal operations) or during the next ethylene cracking furnace complete shutdown (when the ethylene cracking furnace firebox is taken completely off-line), whichever is earlier.

(B) If a shutdown for repair would cause lower emissions than the potential emissions from delaying repair, then shutdown of the ethylene cracking furnace must immediately commence and the repair must be completed before returning the ethylene cracking furnace back to normal operations.

(ii) During decoking operations, beginning before the expected end of the air-in decoke time, continuously monitor (or use a gas detection tube or equivalent sample technique every three hours to monitor) the CO_2 concentration in the combined decoke effluent downstream of the last component being decoked for an indication that the coke combustion in the ethylene cracking furnace radiant tube(s) is complete. The owner or operator must immediately initiate procedures to stop the coke combustion once the CO_2 concentration at the outlet consistently reaches a level that indicates combustion of coke is complete and site decoke completion assurance procedures have been concluded.

(iii) During decoking operations, continuously monitor the temperature at the radiant tube(s) outlet when air is being introduced to ensure the coke combustion occurring inside the radiant tube(s) is not so aggressive (*i.e.,* too hot) that it damages either the radiant tube(s) or ethylene cracking furnace isolation valve(s). The owner or operator must immediately initiate procedures to reduce the temperature at the radiant tube(s) outlet once the temperature reaches a level that indicates combustion of coke inside the radiant tube(s) is too aggressive.

(iv) After decoking, but before returning the ethylene cracking furnace back to normal operations, verify that decoke air is no longer being added.

(v) After decoking, but before returning the ethylene cracking furnace back to normal operations and/or during normal operations, inject materials into the steam or feed to reduce coke formation inside the radiant tube(s) during normal operation.

(8) *Ethylene cracking furnace isolation valve inspections.* Beginning no later than the compliance dates specified in § 63.1102(c), the owner or operator must conduct ethylene cracking furnace isolation valve inspections as specified in paragraphs (e)(8)(i) and (ii) of this section.

(i) Prior to decoking operation, inspect the applicable ethylene cracking furnace isolation valve(s) to confirm that the radiant tube(s) being decoked is completely isolated from the ethylene production process so that no emissions generated from decoking operations are sent to the ethylene production process. If poor isolation is identified, then the owner or operator must rectify the isolation issue prior to continuing decoking operations to prevent leaks into the ethylene production process.

(ii) Prior to returning the ethylene cracking furnace to normal operations after a decoking operation, inspect the applicable ethylene cracking furnace isolation valve(s) to confirm that the radiant tube(s) that was decoked is completely isolated from the decoking pot or furnace firebox such that no emissions are sent from the radiant tube(s) to the decoking pot or furnace firebox once the ethylene cracking furnace returns to normal operation. If poor isolation is identified, then the owner or operator must rectify the isolation issue prior to continuing normal operations to prevent product from escaping to the atmosphere through the decoking pot or furnace firebox.

(9) *Startup, shutdown, and malfunction referenced provisions.* Beginning no later than the compliance dates specified in § 63.1102(c), the referenced provisions specified in paragraphs (e)(9)(i) through (xx) of this section do not apply when demonstrating compliance with paragraph (e)(3) of this section.

(i) The second sentence of § 63.181(d)(5)(i) of subpart H.

(ii) The second sentence of § 63.983(a)(5) of subpart SS.

(iii) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.984(a) of subpart SS.

(iv) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.985(a) of subpart SS.

(v) The phrase ''other than start-ups, shutdowns, or malfunctions'' in § 63.994(c)(1)(ii)(D) of subpart SS.

(vi) Section 63.996(c)(2)(ii) of subpart SS.

(vii) The last sentence of § 63.997(e)(1)(i) of subpart SS.

(viii) Section 63.998(b)(2)(iii) of subpart SS.

(ix) The phrase ''other than periods of startups, shutdowns, and malfunctions'' from § 63.998(b)(5)(i)(A) of subpart SS.

(x) The phrase ''other than a start-up, shutdown, or malfunction'' from § 63.998(b)(5)(i)(B)(3) of subpart SS.

(xi) The phrase ''other than periods of startups, shutdowns, and malfunctions'' from § 63.998(b)(5)(i)(C) of subpart SS.

(xii) The phrase ''other than a start-up, shutdown, or malfunction'' from § 63.998(b)(5)(ii)(C) of subpart SS.

(xiii) The phrase ''except as provided in paragraphs (b)(6)(i)(A) and (B) of this section'' from § 63.998(b)(6)(i) of subpart SS.

(xiv) The second sentence of § 63.998(b)(6)(ii) of subpart SS.

(xv) Section 63.998(c)(1)(ii)(D) through (G) of subpart SS.

(xvi) Section 63.998(d)(3) of subpart SS.

(xvii) The phrase ''may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or'' from § 63.1024(f)(4)(i) of subpart UU.

(xviii) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1026(e)(1)(ii)(A) of subpart UU.

(xix) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1028(e)(1)(i)(A) of subpart UU.

(xx) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1031(b)(1) of subpart UU.

(10) *Storage vessel degassing.* Beginning no later than the compliance dates specified in § 63.1102(c), for each storage vessel subject to paragraph (b) or (c) of Table 7 to § 63.1103(e), the owner or operator must comply with paragraphs (e)(10)(i) through (iii) of this section during storage vessel shutdown operations (*i.e.,* emptying and degassing of a storage vessel) until the vapor space concentration in the storage vessel is less than 10 percent of the LEL. The owner or operator must determine the LEL using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(i) Remove liquids from the storage vessel as much as practicable;

(ii) Comply with one of the following:

(A) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to a flare and meet the requirements of § 63.983 and paragraphs (e)(4) and (9) of this section.

(B) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of non-flare control devices and meet the requirements specified in § 63.982(c)(1) and paragraph (e)(9) of this section.

(C) Reduce emissions of total organic HAP by 98 weight-percent by routing emissions to a fuel gas system or process and meet the requirements specified in § 63.982(d) and paragraph (e)(9) of this section.

(iii) Maintain records necessary to demonstrate compliance with the requirements in § 63.1108(a)(4)(ii) including, if appropriate, records of existing standard site procedures used to empty and degas (deinventory) equipment for safety purposes.

TABLE 7 TO § 63.1103(E)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
(a) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥3.4 kilopascals but <76.6 kilopascals; and the capacity of the vessel is ≥4 cubic meters but <95 cubic meters.	(i) Fill the vessel through a submerged pipe; or (ii) Comply with the requirements for storage vessels with capacities ≥95 cubic meters.
(b) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥3.4 kilopascals but <76.6 kilopascals; and the capacity of the vessel is ≥95 cubic meters.	(i) Except as specified in paragraph (b)(1)(iii) of this table, comply with the requirements of subpart WW of this part; or (ii) Except as specified in paragraph (b)(1)(iii) of this table, reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices and meet the requirements of § 63.982(a)(1). (iii) Beginning no later than the compliance dates specified in § 63.1102(c), comply with paragraph (b)(1)(iii)(A), (B), (C), or (D) of this table, and (e)(10) of this section. (A) Comply with the requirements of subpart WW of this part; or (B) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to a flare and meet the requirements of § 63.983 and paragraphs (e)(4) and (9) of this section; or (C) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of non-flare control devices and meet the requirements specified in § 63.982(c)(1) and (e)(9) of this section; or (D) Reduce emissions of total organic HAP by 98 weight-percent by routing emissions to a fuel gas system[(a)] or process and meet the requirements specified in § 63.982(d) and (e)(9) of this section.

TABLE 7 TO § 63.1103(E)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
(c) A storage vessel (as defined in § 63.1101) that stores liquid containing organic HAP.	(1) The maximum true vapor pressure of total organic HAP is ≥76.6 kilopascals.	(i) Except as specified in paragraph (c)(1)(ii) of this table, reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices and meet the requirements of § 63.982(a)(1). (ii) Beginning no later than the compliance dates specified in § 63.1102(c), comply with paragraph (c)(1)(ii)(A), (B), or (C) of this table, and (e)(10) of this section. (A) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to a flare and meet the requirements of § 63.983 and paragraphs (e)(4) and (9) of this section; or (B) Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of non-flare control devices and meet the requirements specified in § 63.982(c)(1) and (e)(9) of this section; or (C) Reduce emissions of total organic HAP by 98 weight-percent by routing emissions to a fuel gas system[a] or process and meet the requirements specified in § 63.982(d) and (e)(9) of this section.
(d) An ethylene process vent (as defined in paragraph (e)(2) of this section).	(1) The process vent is at an existing source and the vent stream has a flow rate ≥0.011 scmm and a total organic HAP concentration ≥50 parts per million by volume on a dry basis; or the process vent is at a new source and the vent stream has a flow rate ≥0.008 scmm and a total organic HAP concentration ≥30 parts per million by volume on a dry basis.	(i) Except as specified in paragraph (d)(1)(ii) of this table, reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume on a dry basis corrected to 3% oxygen; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices and meet the requirements specified in § 63.982(b) and (c)(2). (ii) Beginning no later than the compliance dates specified in § 63.1102(c), comply with the maintenance vent requirements specified in paragraph (e)(5) of this section and either paragraph (d)(1)(ii)(A) or (B) of this table. (A) Reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume on a dry basis corrected to 3-percent oxygen; whichever is less stringent, by venting emissions through a closed vent system to a flare and meet the requirements of § 63.983 and paragraphs (e)(4) and (9) of this section; or (B) Reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume on a dry basis corrected to 3-percent oxygen; whichever is less stringent, by venting emissions through a closed vent system to any combination of non-flare control devices and meet the requirements specified in § 63.982(c)(2) and (e)(9) of this section.
(e) A transfer rack (as defined in paragraph (e)(2) of this section).	(1) Materials loaded have a true vapor pressure of total organic HAP ≥3.4 kilopascals and ≥76 cubic meters per day (averaged over any consecutive 30-day period) of HAP-containing material is loaded.	(i) Reduce emissions of organic HAP by 98 weight-percent; or reduce organic HAP or TOC to a concentration of 20 parts per million by volume on a dry basis corrected to 3-percent oxygen; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices as specified in § 63.1105 and meet the requirements specified in paragraph (e)(9) of this section.; or

TABLE 7 TO § 63.1103(E)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
		(ii) Install process piping designed to collect the HAP-containing vapors displaced from tank trucks or railcars during loading and to route it to a process, a fuel gas system, or a vapor balance system, as specified in § 63.1105 and meet the requirements specified in paragraph (e)(9) of this section.[a]
(f) Equipment (as defined in § 63.1101) that contains or contacts organic HAP.	(1) The equipment contains or contacts ≥5 weight-percent organic HAP; and the equipment is not in vacuum service.	(i) Except as specified in paragraph (f)(1)(ii) of this table, comply with the requirements of subpart UU of this part. (ii) Beginning no later than the compliance dates specified in § 63.1102(c), comply with the requirements of paragraph (e)(9) of this section and subpart UU of this part, except instead of complying with the pressure relief device requirements of § 63.1030 of subpart UU, meet the requirements of § 63.1107(h), and in lieu of the flare requirement of § 63.1034(b)(2)(iii), comply with the requirements specified in paragraph (e)(4) of this section.[a]
(g) Processes that generate waste (as defined in paragraph (e)(2) of this section.	(1) The waste stream contains any of the following HAP: Benzene, cumene, ethyl benzene, hexane, naphthalene, styrene, toluene, o-xylene, m-xylene, p-xylene, or 1,3-butadiene.	Comply with the waste requirements of subpart XX of this part. For ethylene production unit waste stream requirements, terms have the meanings specified in subpart XX.
(h) A heat exchange system (as defined in § 63.1082(b)).	.....	Comply with the heat exchange system requirements of subpart XX of this part.
(i) A closed vent system that contains one or more bypass lines.	(1) The bypass line could divert a vent stream directly to the atmosphere or to a control device not meeting the requirements in this table.	Beginning no later than the compliance dates specified in § 63.1102(c), comply with the requirements specified in paragraphs (e)(6) and (9) of this section.
(j) A decoking operation associated with an ethylene cracking furnace.	.....	Beginning no later than the compliance dates specified in § 63.1102(c), comply with the requirements specified in paragraphs (e)(7) and (8) of this section.

[a] Beginning no later than the compliance dates specified in § 63.1102(c), any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from an ethylene production unit as determined on an annual average basis, must be in compliance with paragraph (e)(4) of this section.

* * * * *

■ 20. Section 63.1104 is amended by revising paragraph (c) to read as follows:

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

* * * * *

(c) *Applicability assessment requirement.* The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessments for process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. For acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources, and ethylene production affected sources, operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test. For all other affected sources, operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 21. Section 63.1105 is amended by revising paragraph (a) introductory text and adding paragraph (a)(5) to read as follows:

§ 63.1105 Transfer racks.

(a) *Design requirements.* Except as specified in paragraph (a)(5) of this section, the owner or operator shall equip each transfer rack with one of the control options listed in paragraphs (a)(1) through (5) of this section.

* * * * *

(5) Beginning no later than the compliance dates specified in § 63.1102(c), if emissions are vented through a closed vent system to a flare at an ethylene production affected source, then the owner or operator must comply with the requirements specified in § 63.1103(e)(4) instead of the requirements in § 63.987 and the provisions regarding flare compliance assessments at § 63.997(a) through (c).

* * * * *

■ 22. Section 63.1107 is amended by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 63.1107 Equipment leaks.

(a) Each piece of equipment within a process unit that can reasonably be expected to contain equipment in organic HAP service is presumed to be in organic HAP service unless an owner or operator demonstrates that the piece of equipment is not in organic HAP service. For a piece of equipment to be considered not in organic HAP service, it must be determined that the percent organic HAP content can be reasonably expected not to exceed the percent by weight control applicability criteria specified in § 63.1103 for an affected source on an annual average basis. For purposes of determining the percent

organic HAP content of the process fluid that is contained in or contacts equipment, Method 18 of 40 CFR part 60, appendix A shall be used. For purposes of determining the percent organic HAP content of the process fluid that is contained in or contacts equipment for the ethylene production affected sources, the following methods shall be used for equipment: For equipment in gas and vapor service, as that term is defined in Subpart UU of this part, shall use Method 18 of 40 CFR part 60, appendix A; for equipment in liquid service, as that term is defined in Subpart UU of this part, shall use a combination of Method 18 of 40 CFR part 60, appendix A, SW–846–8260B (incorporated by reference, see § 63.14); and SW–846–8270D (incorporated by reference, see § 63.14), as appropriate.

* * * * *

(h) *Ethylene production pressure release requirements.* Beginning no later than the compliance dates specified in § 63.1102(c), except as specified in paragraph (h)(4) of this section, owners or operators of ethylene production affected sources must comply with the requirements specified in paragraphs (h)(1) and (2) of this section for pressure relief devices, such as relief valves or rupture disks, in organic HAP gas or vapor service instead of the pressure relief device requirements of § 63.1030 of subpart UU or § 63.165 of subpart H. Beginning no later than the compliance dates specified in § 63.1102(c), except as specified in paragraphs (h)(4) and (5) of this section, the owner or operator must also comply with the requirements specified in paragraphs (h)(3) and (6) through (8) of this section for all pressure relief devices.

(1) *Operating requirements.* Except during a pressure release, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as measured by the method in § 63.1023(b) of subpart UU or § 63.180(b) and (c) of subpart H.

(2) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, the owner or operator must comply with the applicable requirements in paragraphs (h)(2)(i) through (iii) of this section following a pressure release.

(i) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as specified in § 63.1023(b) of subpart UU or § 63.180(b) and (c) of subpart H, no later than 5 calendar days after the pressure relief device returns to organic HAP gas or vapor service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm.

(ii) If the pressure relief device includes a rupture disk, either comply with the requirements in paragraph (h)(2)(i) of this section (and do not replace the rupture disk) or install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release.

(iii) If the pressure relief device consists only of a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release. The owner or operator must not initiate startup of the equipment served by the rupture disk until the rupture disc is replaced.

(3) *Pressure release management.* Except as specified in paragraphs (h)(4) and (5) of this section, the owner or operator must comply with the requirements specified in paragraphs (h)(3)(i) through (v) of this section for all pressure relief devices in organic HAP service.

(i) The owner or operator must equip each affected pressure relief device with a device(s) or use a monitoring system that is capable of:

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring. The device or monitoring system must be either specific to the pressure relief device itself or must be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(ii) The owner or operator must apply at least three redundant prevention measures to each affected pressure relief device and document these measures. Examples of prevention measures include:

(A) Flow, temperature, liquid level and pressure indicators with deadman switches, monitors, or automatic actuators. Independent, non-duplicative systems within this category count as separate redundant prevention measures.

(B) Documented routine inspection and maintenance programs and/or operator training (maintenance programs and operator training may count as only one redundant prevention measure).

(C) Inherently safer designs or safety instrumentation systems.

(D) Deluge systems.

(E) Staged relief system where the initial pressure relief device (with lower set release pressure) discharges to a flare or other closed vent system and control device.

(iii) If any affected pressure relief device releases to atmosphere as a result of a pressure release event, the owner or operator must perform root cause analysis and corrective action analysis according to the requirement in paragraph (h)(6) of this section and implement corrective actions according to the requirements in paragraph (h)(7) of this section. The owner or operator must also calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in § 63.1110(e)(8)(iii). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(iv) The owner or operator must determine the total number of release events that occurred during the calendar year for each affected pressure relief device separately. The owner or operator must also determine the total number of release events for each pressure relief device for which the root cause analysis concluded that the root cause was a force majeure event, as defined in § 63.1103(e)(2).

(v) Except for pressure relief devices described in paragraphs (h)(4) and (5) of this section, the following release events from an affected pressure relief device are a violation of the pressure release management work practice standards.

(A) Any release event for which the root cause of the event was determined to be operator error or poor maintenance.

(B) A second release event not including force majeure events from a single pressure relief device in a 3-calendar year period for the same root cause for the same equipment.

(C) A third release event not including force majeure events from a single pressure relief device in a 3-calendar year period for any reason.

(4) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* (i) If all releases and potential leaks from a pressure relief device are routed through a closed vent system to a control device, back into the process, a fuel gas system, or drain system, then the owner or operator is not required to comply with paragraph (h)(1), (2), or (3) of this section.

(ii) Before the compliance dates specified in § 63.1102(c), both the

closed vent system and control device (if applicable) referenced in paragraph (h)(4)(i) of this section must meet the applicable requirements specified in § 63.982(b) and (c)(2). Beginning no later than the compliance dates specified in § 63.1102(c), both the closed vent system and control device (if applicable) referenced in paragraph (h)(4)(i) of this section must meet the applicable requirements specified in §§ 63.982(c)(2), 63.983, and 63.1103(e)(4). For purposes of compliance with this paragraph, the phrase "Except for equipment needed for safety purposes such as pressure relief devices" in § 63.983(a)(3) does not apply.

(iii) The drain system (if applicable) referenced in paragraph (h)(4)(i) of this section must meet the applicable requirements specified in § 61.346 or § 63.136.

(5) *Pressure relief devices exempted from pressure release management requirements.* The following types of pressure relief devices are not subject to the pressure release management requirements in paragraph (h)(3) of this section.

(i) Pressure relief devices in heavy liquid service, as defined in § 63.1020 of subpart UU.

(ii) Thermal expansion relief valves.

(iii) Pressure relief devices on mobile equipment.

(iv) Pilot-operated pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, a fuel gas system, or drain system.

(v) Balanced bellows pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, a fuel gas system, or drain system.

(6) *Root cause analysis and corrective action analysis.* A root cause analysis and corrective action analysis must be completed as soon as possible, but no later than 45 days after a release event. Special circumstances affecting the number of root cause analyses and/or corrective action analyses are provided in paragraphs (h)(6)(i) through (iv) of this section.

(i) You may conduct a single root cause analysis and corrective action analysis for a single emergency event that causes two or more pressure relief devices that are installed on the same equipment to release.

(ii) You may conduct a single root cause analysis and corrective action analysis for a single emergency event that causes two or more pressure relief devices to release, regardless of the equipment served, if the root cause is reasonably expected to be a *force majeure* event, as defined in § 63.1103(e)(2).

(iii) Except as provided in paragraphs (h)(6)(i) and (ii) of this section, if more than one pressure relief device has a release during the same time period, an initial root cause analysis must be conducted separately for each pressure relief device that had a release. If the initial root cause analysis indicates that the release events have the same root cause(s), the initial separate root cause analyses may be recorded as a single root cause analysis and a single corrective action analysis may be conducted.

(7) *Corrective action implementation.* Each owner or operator required to conduct a root cause analysis and corrective action analysis as specified in paragraphs (h)(3)(iii) and (6) of this section, must implement the corrective action(s) identified in the corrective action analysis in accordance with the applicable requirements in paragraphs (h)(7)(i) through (iii) of this section.

(i) All corrective action(s) must be implemented within 45 days of the event for which the root cause and corrective action analyses were required or as soon thereafter as practicable. If an owner or operator concludes that no corrective action should be implemented, the owner or operator must record and explain the basis for that conclusion no later than 45 days following the event.

(ii) For corrective actions that cannot be fully implemented within 45 days following the event for which the root cause and corrective action analyses were required, the owner or operator must develop an implementation schedule to complete the corrective action(s) as soon as practicable.

(iii) No later than 45 days following the event for which a root cause and corrective action analyses were required, the owner or operator must record the corrective action(s) completed to date, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(8) *Flowing pilot-operated pressure relief devices.* For ethylene production affected sources that commenced construction or reconstruction on or before October 9, 2019, owners or operators are prohibited from installing a flowing pilot-operated pressure relief device or replacing any pressure relief device with a flowing pilot-operated pressure relief device after July 6, 2023. For ethylene production affected sources that commenced construction or reconstruction after October 9, 2019, owners or operators are prohibited from installing and operating flowing pilot-operated pressure relief devices. For purpose of compliance with this paragraph, a flowing pilot-operated pressure relief device means the type of pilot-operated pressure relief device where the pilot discharge vent continuously releases emissions to the atmosphere when the pressure relief device is actuated.

■ 23. Section 63.1108 is amended by revising paragraphs (a) introductory text, (a)(4), (b)(1)(ii), (b)(2) introductory text, (b)(3), (b)(4)(i) introductory text, and (b)(4)(ii)(B) to read as follows:

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* The requirements of paragraphs (a)(1), (2), and (5) of this section apply to all affected sources except acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources, and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources. The requirements of paragraph (a)(4) of this section apply only to acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources. The requirements of paragraphs (a)(3), (6), and (7) of this section apply to all affected sources.

* * * * *

(4)(i) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources, the emission limitations and established parameter ranges of this part shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. Equipment leak requirements shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(ii) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty

to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

* * * * *

(b) * * *

(1) * * *

(ii) Excused excursions are not allowed for acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources, and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources. For all other affected sources, including ethylene production affected sources prior to the compliance dates specified in § 63.1102(c), an excused excursion, as described in § 63.998(b)(6)(ii), is not a violation.

(2) *Parameter monitoring: Excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)(ii)), if the conditions of paragraph (b)(2)(i) or (ii) of this section are met, except that the conditions of paragraph (b)(2)(i) of this section do not apply for acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources, and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources. Nothing in this paragraph shall be construed to allow or excuse a monitoring parameter excursion caused by any activity that violates other applicable provisions of this subpart or a subpart referenced by this subpart.

* * * * *

(3) *Operation and maintenance procedures.* Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator. This information may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan under § 63.1111, if applicable), review of operation and maintenance records, and inspection of the affected source, and alternatives approved as specified in § 63.1113.

(4) * * *

(i) *Applicability assessments.* Unless otherwise specified in a relevant test method required to assess control applicability, each test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in this subpart. The arithmetic mean of the results of the three runs shall apply when assessing applicability. Upon receiving approval from the Administrator, results of a test run may be replaced with results of an additional test run if it meets the criteria specified in paragraphs (b)(4)(i)(A) through (D) of this section.

* * * * *

(ii) * * *

(B) For acrylic and modacrylic fiber production affected sources, polycarbonate production affected sources, and beginning no later than the compliance dates specified in § 63.1102(c), ethylene production affected sources, performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 24. Section 63.1109 is amended by adding paragraphs (e) through (i) to read as follows:

§ 63.1109 Recordkeeping requirements.

* * * * *

(e) *Ethylene production flare records.* For each flare subject to the requirements in § 63.1103(e)(4), owners or operators must keep records specified in paragraphs (e)(1) through (15) of this section in lieu of the information required in § 63.998(a)(1) of subpart SS.

(1) Retain records of the output of the monitoring device used to detect the presence of a pilot flame or flare flame as required in § 63.670(b) of subpart CC and the presence of a pilot flame as required in § 63.1103(e)(4)(vii)(D) for a minimum of 2 years. Retain records of each 15-minute block during which there was at least one minute that no pilot flame or flare flame is present when regulated material is routed to a flare for a minimum of 5 years. For each pressure-assisted multi-point flare that uses cross-lighting, retain records of each 15-minute block during which there was at least one minute that no pilot flame is present on each stage when regulated material is routed to a flare for a minimum of 5 years. You may reduce the collected minute-by-minute data to a 15-minute block basis with an indication of whether there was at least one minute where no pilot flame or flare flame was present.

(2) Retain records of daily visible emissions observations as specified in paragraphs (e)(2)(i) through (iv) of this section, as applicable, for a minimum of 3 years.

(i) To determine when visible emissions observations are required, the record must identify all periods when regulated material is vented to the flare.

(ii) If visible emissions observations are performed using Method 22 of 40 CFR part 60, appendix A–7, then the record must identify whether the visible emissions observation was performed, the results of each observation, total duration of observed visible emissions, and whether it was a 5-minute or 2-hour observation. Record the date and start time of each visible emissions observation.

(iii) If a video surveillance camera is used pursuant to § 63.670(h)(2) of subpart CC, then the record must include all video surveillance images recorded, with time and date stamps.

(iv) For each 2-hour period for which visible emissions are observed for more than 5 minutes in 2 consecutive hours, then the record must include the date and start and end time of the 2-hour period and an estimate of the cumulative number of minutes in the 2-hour period for which emissions were visible.

(3) The 15-minute block average cumulative flows for flare vent gas and, if applicable, total steam, perimeter assist air, and premix assist air specified to be monitored under § 63.670(i) of subpart CC, along with the date and time interval for the 15-minute block. If multiple monitoring locations are used to determine cumulative vent gas flow, total steam, perimeter assist air, and premix assist air, then retain records of the 15-minute block average flows for each monitoring location for a minimum of 2 years, and retain records of the 15-minute block average cumulative flows that are used in subsequent calculations

for a minimum of 5 years. If pressure and temperature monitoring is used, then retain records of the 15-minute block average temperature, pressure, and molecular weight of the flare vent gas or assist gas stream for each measurement location used to determine the 15-minute block average cumulative flows for a minimum of 2 years, and retain records of the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 5 years.

(4) The flare vent gas compositions specified to be monitored under § 63.670(j) of subpart CC. Retain records of individual component concentrations from each compositional analysis for a minimum of 2 years. If an NHVvg analyzer is used, retain records of the 15-minute block average values for a minimum of 5 years.

(5) Each 15-minute block average operating parameter calculated following the methods specified in § 63.670(k) through (n) of subpart CC, as applicable.

(6) All periods during which operating values are outside of the applicable operating limits specified in § 63.670(d) through (f) of subpart CC and § 63.1103(e)(4)(vii) when regulated material is being routed to the flare.

(7) All periods during which the owner or operator does not perform flare monitoring according to the procedures in § 63.670(g) through (j) of subpart CC.

(8) For pressure-assisted multi-point flares, if a stage of burners on the flare uses cross-lighting, then a record of any changes made to the distance between burners.

(9) For pressure-assisted multi-point flares, all periods when the pressure monitor(s) on the main flare header show burners are operating outside the range of the manufacturer's specifications. Indicate the date and time for each period, the pressure measurement, the stage(s) and number of burners affected, and the range of manufacturer's specifications.

(10) For pressure-assisted multi-point flares, all periods when the staging valve position indicator monitoring system indicates a stage of the pressure-assisted multi-point flare should not be in operation and when a stage of the pressure-assisted multi-point flare should be in operation and is not. Indicate the date and time for each period, whether the stage was supposed to be open, but was closed or vice versa, and the stage(s) and number of burners affected.

(11) Records of periods when there is flow of vent gas to the flare, but when there is no flow of regulated material to the flare, including the start and stop time and dates of periods of no regulated material flow.

(12) Records when the flow of vent gas exceeds the smokeless capacity of the flare, including start and stop time and dates of the flaring event.

(13) Records of the root cause analysis and corrective action analysis conducted as required in § 63.670(o)(3) of subpart CC and § 63.1103(e)(4)(iv), including an identification of the affected flare, the date and duration of the event, a statement noting whether the event resulted from the same root cause(s) identified in a previous analysis and either a description of the recommended corrective action(s) or an explanation of why corrective action is not necessary under § 63.670(o)(5)(i) of subpart CC.

(14) For any corrective action analysis for which implementation of corrective actions are required in § 63.670(o)(5) of subpart CC, a description of the corrective action(s) completed within the first 45 days following the discharge and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(15) Records described in § 63.10(b)(2)(vi).

(f) *Ethylene production maintenance vent records.* For each maintenance vent opening subject to the requirements in § 63.1103(e)(5), the owner or operator must keep the applicable records specified in (f)(1) through (5) of this section.

(1) The owner or operator must maintain standard site procedures used to deinventory equipment for safety purposes (*e.g.,* hot work or vessel entry procedures) to document the procedures used to meet the requirements in § 63.1103(e)(5). The current copy of the procedures must be retained and available on-site at all times. Previous versions of the standard site procedures, as applicable, must be retained for 5 years.

(2) If complying with the requirements of § 63.1103(e)(5)(i)(A) and the LEL at the time of the vessel opening exceeds 10 percent, records that identify the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and the LEL at the time of the vessel opening.

(3) If complying with the requirements of § 63.1103(e)(5)(i)(B) and either the vessel pressure at the time of the vessel opening exceeds 5 psig or the LEL at the time of the active purging was initiated exceeds 10 percent, records that identify the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, the pressure of the vessel or equipment at the time of discharge to the atmosphere and, if applicable, the LEL of the vapors in the equipment when active purging was initiated.

(4) If complying with the requirements of § 63.1103(e)(5)(i)(C), records of the estimating procedures used to determine the total quantity of VOC in equipment and the type and size limits of equipment that contain less than 50 pounds of VOC at the time of maintenance vent opening. For each maintenance vent opening of equipment that contains greater than 50 pounds of VOC for which the deinventory procedures specified in paragraph (f)(1) of this section are not followed or for which the equipment opened exceeds the type and size limits established in the records specified in this paragraph, records that identify the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere.

(5) If complying with the requirements of § 63.1103(e)(5)(i)(D), identification of the maintenance vent, the process units or equipment associated with the maintenance vent, records documenting actions taken to comply with other applicable alternatives and why utilization of this alternative was required, the date of maintenance vent opening, the equipment pressure and LEL of the vapors in the equipment at the time of discharge, an indication of whether active purging was performed and the pressure of the equipment during the installation or removal of the blind if active purging was used, the duration the maintenance vent was open during the blind installation or removal process, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere for each applicable maintenance vent opening.

(g) *Ethylene production bypass line records.* For each flow event from a bypass line subject to the requirements in § 63.1103(e)(6), the owner or operator must maintain records sufficient to determine whether or not the detected flow included flow requiring control. For each flow event from a bypass line requiring control that is released either directly to the atmosphere or to a control device not meeting the requirements specified in Table 7 to § 63.1103(e), the owner or operator must include an estimate of the volume of

gas, the concentration of organic HAP in the gas and the resulting emissions of organic HAP that bypassed the control device using process knowledge and engineering estimates.

(h) *Decoking operation of ethylene cracking furnace records.* For each decoking operation of an ethylene cracking furnace subject to the standards in § 63.1103(e)(7) and (8), the owner or operator must keep the records specified in paragraphs (h)(1) through (6) of this section.

(1) Records that document the day and time each inspection specified in § 63.1103(e)(7)(i) took place, the results of each inspection, and any repairs made to correct the flame impingement; and for any repair that is delayed beyond 1 calendar day, the records specified in paragraphs (h)(1)(i) through (iii) of this section.

(i) The reason for the delay.

(ii) An estimate of the emissions from shutdown for repair and an estimate of the emissions likely to result from delay of repair, and whether the requirements at § 63.1103(e)(7)(i)(A) or (B) were met.

(iii) The date the repair was completed or, if the repair has not been completed, a schedule for completing the repair.

(2) If the owner or operator chooses to monitor the CO_2 concentration during decoking as specified in § 63.1103(e)(7)(ii), then for each decoking cycle, records must be kept for all measured CO_2 concentration values beginning before the expected end of the air-in decoke time, the criterion used to begin the CO_2 monitoring, and the target used to indicate combustion is complete. The target record should identify any time period the site routinely extends air addition beyond the specified CO_2 concentration and any decoke completion assurance procedures used to confirm all coke has been removed prior to stopping air addition that occurs after the CO_2 target is reached.

(3) If the owner or operator chooses to monitor the temperature at the radiant tube(s) outlet during decoking as specified in § 63.1103(e)(7)(iii), then for each decoking cycle, records must be kept for all measured temperature values and the target used to indicate a reduction in temperature of the inside of the radiant tube(s) is necessary.

(4) If the owner or operator chooses to comply with § 63.1103(e)(7)(iv), then records must be kept that document that decoke air is no longer being added after each decoking cycle.

(5) If the owner or operator chooses to treat steam or feed to reduce coke formation as specified in § 63.1103(e)(7)(v), then records must be kept that document that the planned treatment occurred.

(6) For each decoking operation of an ethylene cracking furnace subject to the requirements in § 63.1103(e)(8), the owner or operator must keep records that document the day each inspection took place and the results of each inspection where an isolation problem was identified including any repairs made to correct the problem.

(i) *Ethylene production pressure relief devices records.* For each pressure relief device subject to the pressure release management work practice standards in § 63.1107(h)(3), the owner or operator must keep the records specified in paragraphs (i)(1) through (3) of this section.

(1) Records of the prevention measures implemented as required in § 63.1107(h)(3)(ii).

(2) Records of the number of releases during each calendar year and the number of those releases for which the root cause was determined to be a force majeure event. Keep these records for the current calendar year and the past five calendar years.

(3) For each release to the atmosphere, the owner or operator must keep the records specified in paragraphs (i)(3)(i) through (iv) of this section.

(i) The start and end time and date of each pressure release to the atmosphere.

(ii) Records of any data, assumptions, and calculations used to estimate of the mass quantity of each organic HAP released during the event.

(iii) Records of the root cause analysis and corrective action analysis conducted as required in § 63.1107(h)(3)(iii), including an identification of the affected pressure relief device, a statement noting whether the event resulted from the same root cause(s) identified in a previous analysis and either a description of the recommended corrective action(s) or an explanation of why corrective action is not necessary under § 63.1107(h)(7)(i).

(iv) For any corrective action analysis for which implementation of corrective actions are required in § 63.1107(h)(7), a description of the corrective action(s) completed within the first 45 days following the discharge and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

■ 25. Section 63.1110 is amended by:

■ a. Revising paragraphs (a) introductory text, (a)(7), and (a)(9) introductory text;

■ b. Adding paragraph (a)(10);

■ c. Revising paragraphs (d)(1) introductory text and (d)(1)(i);

■ d. Adding paragraphs (d)(1)(iv) and (v);

■ e. Revising paragraph (e)(1);

■ f. Adding paragraphs (e)(4) through (8); and

■ g. Revising paragraphs (g)(1) and (2).

The revisions and additions read as follows:

§ 63.1110 Reporting requirements.

(a) *Required reports.* Each owner or operator of an affected source subject to this subpart shall submit the reports listed in paragraphs (a)(1) through (8) of this section, as applicable. Each owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to this subpart shall also submit the reports listed in paragraph (a)(9) of this section in addition to the reports listed in paragraphs (a)(1) through (8) of this section, as applicable. Beginning no later than the compliance dates specified in § 63.1102(c), each owner or operator of an ethylene production affected source subject to this subpart shall also submit the reports listed in paragraph (a)(10) of this section in addition to the reports listed in paragraphs (a)(1) through (8) of this section, as applicable.

* * * * *

(7) Startup, Shutdown, and Malfunction Reports described in § 63.1111 (except for acrylic and modacrylic fiber production affected sources, ethylene production affected sources, and polycarbonate production affected sources).

* * * * *

(9) Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraph (a)(9)(i) or (ii) of this section.

* * * * *

(10)(i) Beginning no later than the compliance dates specified in § 63.1102(c), within 60 days after the date of completing each performance test required by this subpart, the owner or operator must submit the results of the performance test following the procedures specified in paragraphs (a)(10)(i)(A) through (C) of this section.

(A) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via

CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(B) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(C) *CBI.* If you claim some of the information submitted under paragraph (a)(10)(i)(A) or (B) of this section is CBI, then the owner or operator must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described in paragraphs (a)(10)(i)(A) and (B) of this section.

(ii) Beginning no later than the compliance dates specified in § 63.1102(c), the owner or operator must submit all subsequent Notification of Compliance Status reports required under paragraph (a)(4) of this section in PDF format to the EPA via CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/*). All subsequent Periodic Reports required under paragraph (a)(5) of this section must be submitted to the EPA via CEDRI using the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart beginning no later than the compliance dates specified in § 63.1102(c) or once the report template has been available on the CEDRI website for one year, whichever date is later. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, then submit a complete report, including information claimed to be CBI, to the EPA. Periodic Reports must be generated using the appropriate template on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (E143–01), Attention: Ethylene Production Sector Lead, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(iii) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, the owner or operator must meet the requirements outlined in paragraphs (a)(10)(iii)(A) through (G) of this section.

(A) The owner or operator must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(B) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(C) The outage may be planned or unplanned.

(D) The owner or operator must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(E) The owner or operator must provide to the Administrator a written description identifying:

(*1*) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(*2*) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(*3*) Measures taken or to be taken to minimize the delay in reporting; and

(*4*) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(F) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(G) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(iv) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, the owner or operator must meet the requirements outlined in paragraphs (a)(10)(iv)(A) through (E) of this section.

(A) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this paragraph, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(B) The owner or operator must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(C) The owner or operator must provide to the Administrator:

(*1*) A written description of the force majeure event;

(*2*) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(*3*) Measures taken or to be taken to minimize the delay in reporting; and

(*4*) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(D) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(E) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

* * * * *

(d) * * *

(1) *Contents.* The owner or operator shall submit a Notification of Compliance Status for each affected source subject to this subpart containing the information specified in paragraphs (d)(1)(i) and (ii) of this section. For pressure relief devices subject to the requirements of § 63.1107(e)(3), the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source shall also submit the information listed in paragraph (d)(1)(iii) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring. For flares subject to the requirements of § 63.1103(e)(4), the owner or operator of an ethylene production affected source shall also submit the information listed in paragraph (d)(1)(iv) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for flare monitoring. For pressure relief devices subject to the pressure release management work practice standards in § 63.1107(h)(3), the owner or operator of an ethylene production affected source shall also submit the information listed in paragraph (d)(1)(v) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

(i) Except as specified in paragraphs (d)(1)(iv) and (v) of this section, the Notification of Compliance Status shall include the information specified in this subpart and the subparts referenced by this subpart. Alternatively, this information can be submitted as part of a title V permit application or amendment.

* * * * *

(iv) For each flare subject to the requirements in § 63.1103(e)(4), in lieu of the information required in § 63.987(b) of subpart SS, the Notification of Compliance Status shall include flare design (*e.g.,* steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point); all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the initial visible emissions demonstration required by § 63.670(h) of subpart CC, as applicable; and all periods during the compliance determination when the pilot flame or flare flame is absent.

(v) For pressure relief devices subject to the requirements of § 63.1107(h), the Notification of Compliance Status shall include the information specified in paragraphs (d)(1)(v)(A) and (B) of this section.

(A) A description of the monitoring system to be implemented, including the relief devices and process parameters to be monitored, and a description of the alarms or other methods by which operators will be notified of a pressure release.

(B) A description of the prevention measures to be implemented for each affected pressure relief device.

* * * * *

(e) * * *

(1) *Contents.* Except as specified in paragraphs (e)(4) through (8) of this section, Periodic Reports shall include all information specified in this subpart and subparts referenced by this subpart.

* * * * *

(4) *Ethylene production flare reports.* For each flare subject to the requirements in § 63.1103(e)(4), the Periodic Report shall include the items specified in paragraphs (e)(4)(i) through (vi) of this section in lieu of the information required in § 63.999(c)(3) of subpart SS.

(i) Records as specified in § 63.1109(e)(1) for each 15-minute block during which there was at least one minute when regulated material is routed to a flare and no pilot flame or flare flame is present. Include the start and stop time and date of each 15-minute block.

(ii) Visible emission records as specified in § 63.1109(e)(2)(iv) for each period of 2 consecutive hours during which visible emissions exceeded a total of 5 minutes.

(iii) The periods specified in § 63.1109(e)(7). Indicate the date and start time for the period, and the net heating value operating parameter(s) determined following the methods in § 63.670(k) through (n) of subpart CC as applicable.

(iv) For flaring events meeting the criteria in § 63.670(o)(3) of subpart CC and § 63.1103(e)(4)(iv):

(A) The start and stop time and date of the flaring event.

(B) The length of time that emissions were visible from the flare during the event.

(C) Results of the root cause and corrective actions analysis completed during the reporting period, including the corrective actions implemented during the reporting period and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(v) For pressure-assisted multi-point flares, the periods of time when the pressure monitor(s) on the main flare header show the burners operating outside the range of the manufacturer's specifications.

(vi) For pressure-assisted multi-point flares, the periods of time when the staging valve position indicator monitoring system indicates a stage should not be in operation and is or when a stage should be in operation and is not.

(5) *Ethylene production maintenance vent reports.* For maintenance vents subject to the requirements § 63.1103(e)(5), Periodic Reports must include the information specified in paragraphs (e)(5)(i) through (iv) of this section for any release exceeding the applicable limits in § 63.1103(e)(5)(i). For the purposes of this reporting requirement, owners or operators complying with § 63.1103(e)(5)(i)(D) must report each venting event conducted under those provisions and include an explanation for each event as to why utilization of this alternative was required.

(i) Identification of the maintenance vent and the equipment served by the maintenance vent.

(ii) The date and time the maintenance vent was opened to the atmosphere.

(iii) The LEL, vessel pressure, or mass of VOC in the equipment, as applicable, at the start of atmospheric venting. If the 5 psig vessel pressure option in § 63.1103(e)(5)(i)(B) was used and active purging was initiated while the LEL was 10 percent or greater, also include the LEL of the vapors at the time active purging was initiated.

(iv) An estimate of the mass of organic HAP released during the entire atmospheric venting event.

(6) *Bypass line reports.* For bypass lines subject to the requirements in § 63.1103(e)(6), Periodic Reports must include the date, time, duration, estimate of the volume of gas, the concentration of organic HAP in the gas and the resulting mass emissions of organic HAP that bypass a control device. For periods when the flow indicator is not operating, report the date, time, and duration.

(7) *Decoking operation reports.* For decoking operations of an ethylene cracking furnace subject to the requirements in § 63.1103(e)(7) and (8), Periodic Reports must include the information specified in paragraphs (e)(7)(i) through (iii) of this section.

(i) For each control measure selected to minimize coke combustion emissions as specified in § 63.1103(e)(7)(ii) through (v), report instances where the control measures were not followed.

(ii) Report instances where an isolation valve inspection was not conducted according to the procedures specified in § 63.1103(e)(8).

(iii) For instances where repair was delayed beyond 1 calendar day as specified in § 63.1103(e)(7)(i), report the information specified in § 63.1109(h)(1).

(8) *Ethylene production pressure relief devices reports.* For pressure relief devices subject to the requirements of § 63.1107(h), Periodic Reports must include the information specified in paragraphs (e)(8)(i) through (iii) of this section.

(i) For pressure relief devices in organic HAP gas or vapor service, pursuant to § 63.1107(h)(1), report any instrument reading of 500 ppm or greater.

(ii) For pressure relief devices in organic HAP gas or vapor service subject to § 63.1107(h)(2), report confirmation that any monitoring required to be done during the reporting period to show compliance was conducted.

(iii) For pressure relief devices in organic HAP service subject to § 63.1107(h)(3), report each pressure release to the atmosphere, including duration of the pressure release and estimate of the mass quantity of each organic HAP released; the results of any root cause analysis and corrective action analysis completed during the reporting period, including the corrective actions implemented during the reporting period; and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

* * * * *

(g) * * *

(1) *Submission to the Environmental Protection Agency.* All reports and notifications required under this subpart shall be sent to the appropriate EPA Regional Office and to the delegated State authority, except that request for permission to use an alternative means of emission limitation as provided for in § 63.1113 shall be submitted to the Director of the EPA Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, MD–10, Research Triangle Park, North Carolina, 27711. The EPA Regional Office may waive the requirement to submit a copy of any reports or notifications at its discretion, except that electronic reporting to CEDRI cannot be waived, and as such, compliance with the provisions of this paragraph does not relieve owners or operators of affected facilities of the requirement to submit electronic reports required in this subpart to the EPA.

(2) *Submission of copies.* If any State requires a notice that contains all the information required in a report or notification listed in this subpart, an owner or operator may send the appropriate EPA Regional Office a copy of the report or notification sent to the State to satisfy the requirements of this subpart for that report or notification, except that performance test reports and performance evaluation reports required under paragraph (a)(10) of this section must be submitted to CEDRI in the format specified in that paragraph.

* * * * *

■ 26. Section 63.1111 is amended by revising paragraphs (a) introductory text, (b) introductory text, and (c) introductory text to read as follows:

§ 63.1111 Startup, shutdown, and malfunction.

(a) *Startup, shutdown, and malfunction plan.* Before July 6, 2023, the requirements of this paragraph (a) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. On and after July 6, 2023, the requirements of this paragraph (a) apply to all affected sources except for acrylic and modacrylic fiber production affected sources, ethylene production affected sources, and polycarbonate production affected sources.

* * * * *

(b) *Startup, shutdown, and malfunction reporting requirements.* Before July 6, 2023, the requirements of this paragraph (b) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. On and after July 6, 2023, the requirements of this paragraph (b) apply to all affected sources except for acrylic and modacrylic fiber production affected sources, ethylene production affected sources, and polycarbonate production affected sources.

* * * * *

(c) *Malfunction recordkeeping and reporting.* Before July 6, 2023, the requirements of this paragraph (c) apply only to acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. On and after July 6, 2023, the requirements of this paragraph (c) apply only to acrylic and modacrylic fiber production affected sources, ethylene production affected sources, and polycarbonate production affected sources.

* * * * *

■ 27. Section 63.1112 is amended by revising paragraph (d)(2) to read as follows:

§ 63.1112 Extension of compliance, and performance test, monitoring, recordkeeping and reporting waivers and alternatives.

* * * * *

(d) * * *

(2) Recordkeeping or reporting requirements may be waived upon written application to the Administrator if, in the Administrator's judgment, the affected source is achieving the relevant standard(s), or the source is operating under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request. Electronic reporting to the EPA cannot be waived, and as such, compliance with the provisions of this paragraph does not relieve owners or operators of affected facilities of the requirement to submit electronic reports required in this subpart to the EPA.

* * * * *

■ 28. Section 63.1113 is amended by revising paragraph (a)(2) to read as follows:

§ 63.1113 Procedures for approval of alternative means of emission limitation.

(a) * * *

(2) Any such notice shall be published only after public notice and an opportunity for public comment.

* * * * *

■ 29. Section 63.1114 is amended by revising paragraph (b) introductory text and adding paragraph (b)(6) to read as follows:

§ 63.1114 Implementation and enforcement.

* * * * *

(b) In delegating implementation and enforcement authority of this subpart to a state, local, or tribal agency under subpart E to this part, the authorities contained in paragraphs (b)(1) through (6) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

* * * * *

(6) Approval of an alternative to any electronic reporting to EPA required by this subpart.

[FR Doc. 2020–05898 Filed 7–2–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 79, 80, 1042, 1043, 1065 and 1090

[EPA–HQ–OAR–2018–0227; FRL–10014–97–OAR]

RIN 2060–AT31

Fuels Regulatory Streamlining

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action updates many of EPA's existing gasoline, diesel, and other fuel quality programs to improve overall compliance assurance and maintain environmental performance, while reducing compliance costs for industry and EPA. EPA is streamlining existing fuel quality regulations by removing expired provisions, eliminating redundant compliance provisions (*e.g.,* duplicative registration requirements that are required by every EPA fuels program), removing unnecessary and out-of-date requirements, and replacing them with a single set of provisions and definitions that applies to all gasoline, diesel, and other fuel quality programs. This action does not change the stringency of the existing fuel quality standards.

DATES: This rule is effective on January 1, 2021, except for amendatory instructions 48, 51, and 52, which are effective on December 4, 2020, and amendatory instructions 16, 18, and 19, which are effective on January 1, 2022. The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register as of December 4, 2020. The incorporation by reference of ASTM D86–12, D93–13, D445–12, D613–13, D4052–11, and D5186–03 (R2009) in part 1065 was approved by the Director of the Federal Register as of June 27, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0227. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material is not available on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nick Parsons, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4479; email address: *parsons.nick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Does this action apply to me?

Entities potentially affected by this final rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel. Potentially affected categories include:

Category	NAICS [1] code	Examples of potentially affected entities
Industry	211130	Natural gas liquids extraction and fractionation.
Industry	221210	Natural gas production and distribution.
Industry	324110	Petroleum refineries (including importers).
Industry	325110	Butane and pentane manufacturers.
Industry	325193	Ethyl alcohol manufacturing.
Industry	325199	Manufacturers of gasoline additives.
Industry	424710	Petroleum bulk stations and terminals.
Industry	424720	Petroleum and petroleum products wholesalers.
Industry	447110, 447190	Fuel retailers.
Industry	454310	Other fuel dealers.
Industry	486910	Natural gas liquids pipelines, refined petroleum products pipelines.
Industry	493190	Other warehousing and storage—bulk petroleum storage.

[1] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 1090. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not relax the control measures on sources regulated by EPA's fuel quality regulations and therefore will not cause emissions increases from these sources.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

XVI. Statutory Authority

Statutory authority for this action comes from sections 202, 203–209, 211, 213, 216, and 301 of the Clean Air Act, 42 U.S.C. 7414, 7521, 7522–7525, 7541, 7542, 7543, 7545, 7547, 7550, and 7601 as well as Public Law 109–58. Additional support for the procedural and compliance related aspects of this action comes from sections 114, 208, and 301(a) of the Clean Air Act, 42 U.S.C. 7414, 7521, 7542, and 7601(a).

List of Subjects

40 CFR Parts 60, 63, 1042, and 1043

Administrative practice and procedure, Air pollution control.

40 CFR Part 79

Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable fuel.

40 CFR Part 1065

Administrative practice and procedure, Air pollution control, Incorporation by reference.

40 CFR Part 1090

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Oil imports, Petroleum, Renewable fuel.

Dated: October 15, 2020.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 60, 63, 79, 80, 1042, 1043, and 1065 and adds 40 CFR part 1090 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

■ 2. Amend § 60.4207 by:

■ a. Removing and reserving paragraph (a);

■ b. In paragraph (b), removing "40 CFR 80.510(b)" and adding "40 CFR 1090.305" in its place; and

■ c. Revising paragraph (d).

The revision reads as follows:

§ 60.4207 What fuel requirements must I meet if I am an owner or operator of a stationary CI internal combustion engine subject to this subpart?

* * * * *

(d) Beginning June 1, 2012, owners and operators of stationary CI ICE subject to this subpart with a displacement of greater than or equal to 30 liters per cylinder must use diesel fuel that meets a maximum per-gallon sulfur content of 1,000 parts per million (ppm).

* * * * *

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

§ 60.4235 [Amended]

■ 3. Amend § 60.4235 by removing "40 CFR 80.195" and adding "40 CFR 1090.205" in its place.

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

■ 5. Amend § 63.421 by revising the definitions for "Oxygenated gasoline" and "Reformulated gasoline" to read as follows:

§ 63.421 Definitions.

* * * * *

Oxygenated gasoline means the same as defined in 40 CFR 80.2.

* * * * *

Reformulated gasoline means the same as defined in 40 CFR 80.2.

* * * * *

Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

§ 63.6604 [Amended]

■ 6. In § 63.6604, amend paragraphs (a), (b), and (c) by removing "40 CFR 80.510(b)" and adding "40 CFR 1090.305" in its place.

PART 79—REGISTRATION OF FUEL AND FUEL ADDITIVES

■ 7. The authority citation for part 79 continues to read as follows:

Authority: 42 U.S.C. 7414, 7524, 7545, and 7601.

Subpart A—General Provisions

■ 8. Amend § 79.5 by revising paragraph (a)(1) to read as follows:

§ 79.5 Periodic reporting requirements.

(a) * * * (1) For each calendar year (January 1 through December 31) commencing after the date prescribed for any fuel in subpart D of this part, fuel manufacturers must submit to the Administrator a report for each registered fuel showing the range of concentration of each additive reported under § 79.11(a) and the volume of such fuel produced in the year. Reports must be submitted by March 31 for the preceding year, or part thereof, on forms supplied by the Administrator. If the date prescribed for a particular fuel in subpart D of this part, or the later registration of a fuel is between October 1 and December 31, no report will be required for the period to the end of that year.

* * * * *

Subpart C—Additive Registration Procedures

■ 9. Amend § 79.21 by:

■ a. Revising paragraphs (f) and (g); and

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0083; FRL–10008–45–OAR]

RIN 2060–AT03

National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Integrated Iron and Steel Manufacturing Facilities source category regulated under national emission standards for hazardous air pollutants (NESHAP). The Agency found that risks due to emissions of air toxics from this source category are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. Under the technology review, we found no developments in practices, processes, or control technologies that necessitate revision of the standards. In addition, we are taking final action to establish emission standards for mercury in response to a 2004 administrative petition for reconsideration which minimizes emissions by limiting the amount of mercury per ton of metal scrap used. We also are removing exemptions for periods of startup, shutdown, and malfunction (SSM) consistent with a 2008 court decision, and clarifying that the emissions standards apply at all times; adding electronic reporting of performance test results and compliance reports; and making minor corrections and clarifications for a few other rule provisions.

DATES: This final rule is effective on July 13, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 13, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0083. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/*. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Donna Lee Jones, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5251; fax number: (919) 541–4991; and email address: *jones.donnalee@epa.gov.* For specific information regarding the risk assessment methodology, contact Ted Palma, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5470; fax number: (919) 541–0840; and email address: *palma.ted@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Maria Malave, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACI activated carbon injection
ADL above detection limit
AISI American Iron and Steel Institute
ANSI American National Standards Institute
ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
BDL below detection limit
BF blast furnace
BOPF basic oxygen process furnace
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
COS carbonyl sulfide
DCOT Digital Camera Opacity Technique
DLL detection level limited
EAF electric arc furnace
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
ESP electrostatic precipitators
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HCN hydrogen cyanide
HI hazard index
HMTDS hot metal transfer, desulfurization, and skimming
HQ hazard quotient
IBR incorporation by reference
ICR information collection request
km kilometers
lbs pounds
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NRDC Natural Resources Defense Council
NVMSRP National Vehicle Mercury Switch Recovery Program
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PDF portable document format
PM particulate matter
$PM_{2.5}$ particulate matter at or below 2.5 micrometers.
ppm parts per million
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
UFIP unmeasured fugitive and intermittent particulate
UMRA Unfunded Mandates Reform Act
UPL upper prediction limit
U.S. United States
VCS voluntary consensus standards
VOC volatile organic compound

Background information. On August 16, 2019, the EPA proposed the results of the RTR and various amendments for the Integrated Iron and Steel Manufacturing Facilities NESHAP (84 FR 42704). In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–

0083). A "redline" (track changes) version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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E. What are the benefits?
F. What analysis of environmental justice did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS code [1]
Integrated Iron and Steel Manufacturing	40 CFR part 63, subpart FFFFF	331110

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/integrated-iron-and-steel-manufacturing-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program, links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 11, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should

submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 42704, August 16, 2019.

B. What is the Integrated Iron and Steel Manufacturing Facilities source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Integrated Iron and Steel Manufacturing Facilities NESHAP on May 20, 2003 (68 FR 27646). The standards are codified at 40 Code of Federal Regulations (CFR) part 63, subpart FFFFF. The rule was amended on July 13, 2006 (71 FR 39579). The amendments added a new compliance option, revised emission limitations, reduced the frequency of repeat performance tests for certain emission units, added corrective action requirements, and clarified monitoring, recordkeeping, and reporting requirements. All documents used to develop the previous 2003 and 2006 final rules can be found in either the legacy docket, A–2000–44, or the electronic docket, EPA–HQ–OAR–2002–0083.

The Integrated Iron and Steel Manufacturing Facilities industry consists of facilities that produce steel from iron ore pellets, coke, metal scrap, and other raw materials using furnaces and other processes. The Integrated Iron and Steel Manufacturing Facilities source category includes sinter production, iron preparation, iron production, and steel production. The source category covered by this MACT standard currently includes 11 facilities.

The main sources of air toxics emissions from Integrated Iron and Steel Manufacturing Facilities are the blast furnace (BF); basic oxygen process furnace (BOPF); hot metal transfer, desulfurization, and skimming (HMTDS) operations; ladle metallurgy operations; sinter plant windbox; sinter plant discharge end; and sinter cooler. All 11 facilities have BFs, BOPFs, HMTDS operations, and ladle metallurgy operations. However, only three facilities have sinter plants. See 40 CFR 63.7852 for definitions of the emission units at integrated iron and steel manufacturing facilities.

The NESHAP includes emission limits for particulate matter (PM) and opacity standards (both of which are surrogates for PM HAP) for furnaces and sinter plants. The NESHAP also includes an emission limit for volatile organic compounds (VOC) for the sinter plant windbox exhaust stream or, as an alternative, an operating limit for the oil content of the sinter plant feedstock. The VOC and oil content limits serve as surrogates for all organic HAP emitted from the windbox.

C. What changes did we propose for the Integrated Iron and Steel Manufacturing Facilities source category in our August 16, 2019, proposal?

On August 16, 2019, the EPA published a proposed rule in the **Federal Register** for the Integrated Iron and Steel Manufacturing Facilities NESHAP, 40 CFR part 63, subpart FFFFF, that took into consideration the RTR analyses (84 FR 42704). In the proposed rule, we also proposed a numerical emissions standard for

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

mercury and an alternative compliance option based on limiting the amount of mercury in the metal scrap used by these facilities. In addition, we proposed the removal of exemptions for periods of SSM consistent with a 2008 court decision, and clarifying that the emissions standards apply at all times; the addition of electronic reporting of performance test results and compliance reports; and minor corrections and clarifications for a few other rule provisions.

D. Regulatory Background

In 2003, the EPA promulgated standards pursuant to CAA section 112(d)(2) and (3) for HAP emissions from the Integrated Iron and Steel Manufacturing Facilities source category. In 2004, the Sierra Club submitted an administrative petition for reconsideration on several issues, including adding standards for mercury, dioxins/furans, polycyclic aromatic hydrocarbons, benzene, and other organic HAP. In 2005, the EPA granted reconsideration to evaluate a possible mercury emission limit, but denied the petition for reconsideration to the extent it requested reconsideration of other issues. The Sierra Club sought judicial review of the 2003 NESHAP as well as the EPA's 2005 denial of the petition for reconsideration. In February 2010, the EPA asked the Court for a voluntary remand without vacatur of both the 2003 rule and the EPA's 2005 reconsideration denial letter. The Court granted this request and the rule and the letter denying reconsideration were remanded to the Agency.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Integrated Iron and Steel Manufacturing Facilities source category. This action also finalizes amendments to the NESHAP, including the addition of mercury emission limits, changes to SSM provisions, addition of electronic reporting, and minor corrections and clarifications to a number of other rule provisions. This final action also includes some changes to the August 2019 proposed requirements based on consideration of comments received during the public comment period described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Integrated Iron and Steel Manufacturing Facilities source category?

The EPA proposed no changes to the Integrated Iron and Steel Manufacturing Facilities NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, the standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Section IV.A.3 of this preamble provides a summary of key comments we received regarding the risk review and our responses to those comments.

B. What are the final rule amendments based on the technology review for the Integrated Iron and Steel Manufacturing Facilities source category?

Consistent with the proposal, we determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards pursuant to CAA section 112(d)(6).

C. What are the final rule amendments for mercury for the Integrated Iron and Steel Manufacturing Facilities source category?

The EPA is promulgating emissions standards for mercury for the Integrated Iron and Steel Manufacturing Facilities source category pursuant to CAA sections 112(d)(2) and (3).

We are promulgating a MACT floor limit of 0.00026 pounds (lbs) of mercury per ton of scrap processed as an input-based limit for all existing BOPFs and related units at existing integrated iron and steel facilities pursuant to CAA section 112(d)(3) for existing sources. We are finalizing the mercury emission limit for existing sources as proposed. We are providing two options to demonstrate compliance with the input-based emission limit in the final rule: (1) Subsequent to an initial performance test required within 1 year of the effective date of the rule, conduct performance testing twice per permit cycle, (*i.e.,* mid-term and at initial or end term for permitted facilities, or every 2.5 years for facilities without a permit) at all BOPF-related units and convert the sum of the results to input-based units (*i.e.,* lbs of mercury per ton of scrap input) and document the results in a test report that can be submitted electronically to the delegated authority with the results (see section IV.E below); or (2) certify annually that the facility obtains all of their scrap from National Vehicle Mercury Switch Recovery Program (NVMSRP) participants (or similar program as approved by the delegated authority), or certify that the scrap processed by the facility does not contain mercury switches. Existing sources will have 1 year to comply with the mercury emission limits.

Pursuant to CAA section 112(d)(3), the standard for new sources shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source. We are promulgating a new source MACT limit of 0.000081 lbs of mercury per ton of scrap processed as an input-based limit for any new BOPF and related units, or any new integrated iron and steel facility. With regard to compliance, new sources will have the same options to demonstrate compliance as existing sources. These new source limits apply to BOPFs for which construction or reconstruction commenced after August 16, 2019.

The mercury emission limits, promulgated pursuant to CAA sections 112(d)(2) and (3), have been added to Table 1 in the NESHAP. In addition, 40 CFR 63.7791 (and related sections 40 CFR 63.7820, 63.7821, 63.7825, 63.7826, 63.7833, 63.7840, and 63.7841) describes the specific compliance deadlines and compliance options related to the control of mercury. Based on consideration of public comments discussed in section IV.C below, we made some minor revisions to the proposed deadlines, compliance options, and testing requirements in 40 CFR 63.7791, 63.7820(e), 63.7821(e), 63.7825, 63.7833(h), 63.7833(i), 63.7840(e), 63.7840(f), and 63.7841(b)(9)–(11). The specific revisions are described in section IV.C.5 of this preamble.

D. What are the final rule amendments addressing emissions during periods of SSM?

In this action, we are finalizing revisions to the SSM provisions of the NESHAP to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (DC Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are finalizing various other changes to modify reporting and monitoring as a result of the SSM revisions. Our analyses and changes related to these issues are discussed below. In addition, we are making minor revisions to aspects of the proposed SSM requirements in response to comments. These changes are discussed below in IV.D.5.

We are finalizing the proposed revision of 40 CFR 63.7810(a) to eliminate the SSM exemption. The

revision will apply after January 11, 2021. In addition, we are updating the references in Table 4 (the General Provisions Applicability Table) of 40 CFR part 63, subpart FFFFF, including the references to 40 CFR 63.6(f)(1) and (h)(1)—the provisions vacated by *Sierra Club* v. *EPA.* Consistent with *Sierra Club* v. *EPA,* the standards in this rule will apply at all times. We are also revising 40 CFR part 63, subpart FFFFF, Table 4 to change several references related to requirements that apply during periods of SSM. For example, we are eliminating the incorporation of the General Provisions' requirement that sources develop an SSM plan. We also are eliminating and revising certain recordkeeping and reporting requirements related to the SSM exemption.

The EPA has attempted to ensure that the provisions we eliminated are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. In promulgating the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods. The integrated iron and steel industry has not identified (and there are no data indicating) any specific problems with removing the SSM provisions.

1. 40 CFR 63.7810(d) General Duty

We are promulgating revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.6(e)(1)(i), which describes the general duty to minimize emissions, and including a "No" for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, we include "Yes on or before January 11, 2021 and No thereafter." in column 3. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are instead adding general duty regulatory text at 40 CFR 63.7810(d) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is promulgating for 40 CFR 63.7810(d) does not include that language from 40 CFR 63.6(e)(1) after January 11, 2021 for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019.

We are also finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.6(e)(1)(ii) and including "No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019." For all other affected sources, we are adding "Yes, on or before January 11, 2021 and No thereafter." in column 3. 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.7810(d).

2. SSM Plan

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.6(e)(3) and including "No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter." in column 3. Generally, the paragraphs under 40 CFR 63.6(e)(3) require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As the EPA is removing the SSM exemptions, the affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan requirements are no longer necessary. For that same reason, we are revising 40 CFR 63.7810(c) to remove the SSM plan requirement 180 days after publication in the **Federal Register** for sources that commenced construction or reconstruction on or before August 16, 2019, and to remove the SSM plan requirement upon publication in the **Federal Register** for all sources that commenced construction or reconstruction after August 16, 2019.

3. Compliance With Standards

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.6(f)(1) and including "No" in column 3. The exemption at 40 CFR 63.6(f)(1), which exempted sources from non-opacity standards during periods of SSM, was vacated by the Court in *Sierra Club* v. *EPA,* as discussed above.

We also are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.6(h)(1) and including "No" in column 3. The exemption at 40 CFR 63.6(h)(1), which exempted sources from opacity standards during periods of SSM, was also vacated by the Court in *Sierra Club* v. *EPA.* Consistent with *Sierra Club* v. *EPA,* the EPA is finalizing revisions to standards in this rule to ensure that a CAA section 112 standard applies at all times.

4. 40 CFR 63.7822 and 63.7823 Performance Testing

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.7(e)(1) and including "No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter." in column 3. In section 40 CFR 63.7(e)(1), performance testing requirements are described. The EPA is instead adding a performance testing requirement at 40 CFR 63.7822(a) and 63.7823(a). The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. The regulatory text we are adding does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and precluded SSM periods from being considered "representative" for purposes of performance testing. In 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during SSM because conditions during SSM are often not representative of normal operating conditions. During SSM periods, both emission and flow rate profiles can be highly variable and unsuitable for the emission measurement methods. The EPA is promulgating language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in this record an explanation to support that such conditions represent normal operation. In 40 CFR 63.7(e), the owner or operator is required to make available to the Administrator on request such records "as may be necessary to determine the condition of the performance test," but does not specifically require the information to be recorded. The regulatory text the EPA is adding to this provision builds onto that requirement and makes explicit the requirement to record the information.

5. Monitoring

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding entries for 40 CFR 63.8(c)(1)(i) and (iii) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.8(d)(3) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is adding to the rule at 40 CFR 63.7842(b)(3) text that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: ''The program of corrective action should be included in the plan required under 40 CFR 63.8(d)(2).''

6. 40 CFR 63.7842 Recordkeeping

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(b)(2)(i) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. 40 CFR 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is requiring that recordkeeping and reporting applicable to normal operations would apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(b)(2)(ii) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. 40 CFR 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is adding such requirements to 40 CFR 63.7842. The regulatory text we are adding differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is finalizing this requirement to apply to any failure to meet an applicable standard and is requiring the source to record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also adding to 40 CFR 63.7842(a)(3) a requirement that sources keep records that include a list of the affected sources or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(b)(2)(iv) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans would no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv) to record actions to minimize emissions and record corrective actions during SSM is now applicable at all times by 40 CFR 63.7842(a)(4).

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(b)(2)(v) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans would no longer be required.

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(c)(15) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. Because the SSM plan requirement is being eliminated, 40 CFR 63.10(c)(15) no longer applies. When applicable, the provision allowed an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is eliminating this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

7. 40 CFR 63.7841 Reporting

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(d)(5)(i) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. 40 CFR 63.10(d)(5)(i) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.7841(b)(4). The replacement language differs from the General Provisions requirement in that it eliminates

periodic SSM reports as a stand-alone report. We are adding language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual reporting period compliance report already required under this rule. We are requiring the report to contain the date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is promulgating this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We are no longer requiring owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans are no longer required. These final amendments, therefore, eliminate from this section the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule. These specifications are no longer necessary because the SSM events would be reported in otherwise required periodic reports with similar format and submittal requirements.

We are finalizing revisions to the General Provisions table (Table 4) of 40 CFR part 63, subpart FFFFF by adding an entry for 40 CFR 63.10(d)(5)(ii) and including ''No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.'' in column 3. 40 CFR 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We are no longer requiring owners and operators to report when actions taken during an SSM event were not consistent with an SSM plan, because such plans are no longer required.

E. What are the final rule amendments addressing electronic reporting?

Through this final rule, the EPA is requiring that owners and operators of integrated iron and steel manufacturing facilities submit the required electronic copies of performance test results and semiannual reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0909).

This final rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT), as listed on the ERT website at the time of the test, be submitted in the format generated through the use of the ERT, and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems that measure relative accuracy test audit pollutants that are supported by the ERT at the time of the test, should be submitted in the format generated through the use of the ERT; other performance evaluation results should be submitted in PDF using the attachment module of the ERT. For semiannual compliance reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. The draft template for these reports is included in the docket for this rulemaking and the final template will be available on the CEDRI homepage (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*).

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.7841(e). The situation where an extension may be warranted due to a force majeure event, which is defined as an event that would be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.7841(f). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements, and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy developed in response to the White House's Digital Government Strategy. For more information on the benefits of electronic reporting, see the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0909).

We are also making minor revisions to aspects of the proposed electronic reporting requirements in response to comments. These rule changes are discussed in section IV.E.5 of this preamble.

F. What other changes are being made to the NESHAP?

1. IBR Under 1 CFR Part 51

We are promulgating regulatory text that includes IBR. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the three documents listed below and amending 40 CFR 63.14 to identify the provisions for which these documents are IBR approved for this rule:

- ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for 40 CFR 63.7822(b), 63.7824(e) and 63.7825(b). This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. The gases addressed in the method are oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons. The method is approved for this rule for oxygen and carbon dioxide measurements, with the caveats described in section VI.J of this preamble.
- ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016, IBR approved for 40 CFR 63.7823(c), 63.7823(d), 63.7823(e), and 63.7833(g). This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a digital camera opacity technique (DCOT) that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. The method is approved for this rule with caveats described in section VI.J of this preamble.
- Fabric Filter Bag Leak Detection Guidance, EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), September 1997, IBR approved for 40 CFR 63.7831(f). This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures.

2. Technical and Editorial Rule Corrections and Clarifications

In this final rule, the EPA is making a number of technical and editorial changes to the NESHAP to reflect corrections and clarifications. These revisions are described in section IV.G.3 of this preamble.

G. What are the effective and compliance dates of the standards?

This final rule is effective on July 13, 2020. Because most of these amendments provide corrections and clarifications to the current rule and do not impose new requirements on the industry, existing sources are required to comply with the amendments 180 days after publication of the final rule, except where indicated otherwise, as in the provisions for mercury. Sources constructed on or before August 16, 2019 must comply with the mercury emission limits within 1 year of publication of the final rule. New BOPF or new facilities constructed or reconstructed after August 16, 2019, must comply with the new source mercury emission limit on the effective date of the final rule, or upon startup, whichever is later. Electronic reporting for the compliance report is required beginning either 180 days after promulgation of the final rule or 180 days after the spreadsheet template is available in CEDRI, whichever is later. Electronic reporting of performance tests is required upon promulgation of the final rule.

IV. What is the rationale for our final decisions and amendments for the Integrated Iron and Steel Manufacturing Facilities source category?

For each significant issue, this section provides a description of what we proposed and what we are finalizing for each issue, the EPA's rationale for the final decisions and amendments, a summary of key comments and responses, and impact on final rule language, if applicable. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* document, which is available in the docket.

A. Residual Risk Review for the Integrated Iron and Steel Manufacturing Facilities Source Category

1. What did we propose pursuant to CAA section 112(f) for the Integrated Iron and Steel Manufacturing Facilities source category?

On August 16, 2019 (84 FR 42704), the EPA proposed that risks posed by emissions from the source category are acceptable, that the current NESHAP provides an ample margin of safety to protect public health, and that additional standards are not necessary to prevent an adverse environmental effect. The estimated cancer risks were below the presumptive limit of acceptability and the noncancer risk results indicate there is minimal likelihood of adverse noncancer health effects due to HAP emissions from this source category. The proposed decision on ample margin of safety was based on weighing factors relevant to this particular source category, including the risk posed by point sources and the costs and cost-effectiveness of additional controls to reduce risk further, as well as uncertainties in the assessment of unmeasured fugitive and intermittent particulate (UFIP),[2] including uncertainties in the baseline emissions estimates used in estimating risk posed by UFIP emissions, the costs and effectiveness of the work practices we considered to reduce these emissions, and the amount of risk reduction that could be achieved with the work practices.

The EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual risk (MIR) of approximately 1-in-10 thousand." (54 FR 38045, September 14, 1989). In the proposal, the EPA estimated risks based on actual and allowable emissions from integrated iron and steel sources, and we considered these in determining acceptability. A more thorough discussion of the risk assessment is included in the *Residual Risk Assessment for the Integrated Iron and Steel Manufacturing Source Category in Support of the Risk and Technology Review 2020 Final Rule* document, available in the docket for this rule

[2] The UFIP sources are BF bleeder valve unplanned openings (also known as slips), BF bleeder valve planned openings, BF bell leaks, BF casthouse fugitives, BF iron beaching, BF slag handling and storage operations, and BOPF shop fugitives.

(Docket ID No. EPA–HQ–OAR–2002–0083).

In the proposed rule, as presented in Table 2 below, based on modeling point source actual emissions from the source category for all 11 facilities, we estimated inhalation cancer risk to the individual most exposed was 10-in-1 million. The estimated incidence of cancer due to inhalation exposures due to the point sources for the source category was 0.03 excess cancer cases per year, or one excess case every 33 years. We estimated that approximately 64,000 people face an increased cancer risk greater than or equal to 1-in-1 million due to inhalation exposure to HAP emissions from the point sources for this source category. The Agency estimated that the maximum chronic noncancer target organ-specific hazard index (TOSHI) from inhalation exposure due to point sources for this source category was 0.1. In the screening assessment of worst-case acute inhalation impacts due to point sources, we estimated a maximum hazard quotient (HQ) of 0.3 (due to arsenic) based on the reference exposure level (REL). With regard to multipathway human health risks, we estimated the cancer risk for the highest exposed individual to be 40-in-1 million (due to dioxins/furans emissions from sinter plants) and the maximum chronic noncancer hazard quotient (HQ) to be less than 1 for all the persistent and bioaccumulative HAP. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from point source emissions from this source category.

As shown in Table 2, based on allowable emissions, the estimated inhalation cancer risk to the individual most exposed from point sources in the source category is 70-in-1 million and the estimated incidence of cancer due to inhalation exposures to these allowable emissions is 0.3 excess cancer cases per year, or one excess case every 3 years. An estimated 6 million people would face an increased cancer risk greater than or equal to 1-in-1 million due to inhalation exposure to allowable HAP emissions from this source category. The maximum chronic noncancer TOSHI from inhalation exposure is 0.9 based on allowable emissions.

TABLE 2—RISK SUMMARY FOR THE INTEGRATED IRON AND STEEL MANUFACTURING SOURCE CATEGORY POINT SOURCE EMISSIONS

Emissions	Inhalation cancer risk		Population cancer risk			Max chronic individual noncancer risk		Max acute noncancer risk		Multipathway assessment
	Maximum individual risk (in 1 million)	Risk driver	Cancer incidence (cases per year)	≥10 in 1 million	≥1 in 1 million	Hazard index (TOSHI)	Risk driver	Hazard quotient	Risk driver	Risk driver and health endpoints
Baseline Actual Emissions: Source Category.	10	chromium (VI) compounds.	0.03	60	64,000	0.1 (developmental).	arsenic and lead compounds.	0.7	arsenic compounds.	Cancer (dioxins/furans) site-specific MIR = 40-in-1 million; Noncancer (mercury) site-specific HQ = 0.5
Baseline Allowable Emissions: Source Category.	70	arsenic compounds, chromium (VI) compounds, nickel compounds, cadmium compounds.	0.3	79,500	5,900,000	0.9 (developmental).	arsenic and lead compounds.	.....	.....	

We also estimated risk posed by both point source and nonpoint (*i.e.,* UFIP) emissions from an actual facility in the category that we selected as an example facility. Of the facilities in the category, the example facility has the largest production capacity, the highest estimated HAP emissions from steelmaking sources (*i.e.,* facility emissions not including sinter plant emissions), and the highest estimated UFIP emissions. The example facility is also the facility with the highest potential population exposure (4 million people within 50 kilometers of the facility). The EPA conducted a risk assessment using conservative emissions estimates to evaluate the potential exposures and risks due to all the emissions for this one example facility. We performed the risk analysis for the example facility to assess the potential change in the magnitude of risk when risk from UFIP emissions is added to risk posed by point-source emissions. The estimated risks due to actual emissions from nonpoint (*i.e.,* UFIP) and point sources for the example facility are presented in Table 3.

When UFIP sources were included in the EPA's risk analysis, the estimated HAP emissions increased from 3 tpy to 53 tpy and the estimated inhalation cancer risk to the individual most exposed to actual emissions from the example facility increased from 2-in-1 million to 20-in-1 million. The estimated population with risks greater than or equal to 1-in-1 million increased from 3,000 to 4,000,000, and the population with risks greater than or equal to 10-in-1 million increased from 0 to 9,000. The maximum chronic noncancer TOSHI from inhalation exposures remained at less than 1, but the acute HQ increased from 0.3 to 3 based on the REL (for arsenic). The two UFIP sources that are the greatest contributors to the inhalation risk in terms of MIR were the BF casthouse and BOPF shop, which are currently regulated by opacity limits in the rule. Based on allowable emissions, the estimated inhalation cancer risk to the individual most exposed increased from 30-in-1 million to 50-in-1 million with the inclusion of emissions from UFIP sources.

There is considerable uncertainty in the estimated risk due to UFIP sources for the example facility due to the uncertainties in the estimated UFIP emissions and release parameters. Nevertheless, if UFIP emissions were quantified for the entire source category, the source category risks and the number of individuals with cancer risk exceeding 1-in-1 million would be expected to increase for each facility.

Although it is problematic to estimate from our risk assessment results (shown in Tables 2 and 3) what the increase in risk might be for each facility in the entire industry without quantifying UFIP emissions for each facility, based upon results from the example facility, we concluded that it is likely that the cancer MIR based on allowable emissions at all other facilities would be less than 90-in-1 million (70-in-1 million from point sources and up to 20-in-1 million from UFIP emissions) and the maximum chronic noncancer HI would be less than 1. For information on the development of emission estimates from the example facility, see the memorandum titled *Development of Emissions Estimates for Fugitive or Intermittent HAP Emission Sources for an Example Integrated Iron and Steel Facility for Input to the RTR Risk Assessment* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0956), hereafter called the ''Example Facility memorandum.''

TABLE 3—INHALATION RISK RESULTS—EXAMPLE FACILITY WITH AND WITHOUT UFIP EMISSIONS

Emissions	Example facility sources	Inhalation chronic cancer				Inhalation chronic noncancer		Acute noncancer	
		MIR (in 1–M)	Incidence	Pop >1-in-1 million	Pop >10-in-1 million	HI (TOSHI)	Target organ	HQ	Pollutant
Actual	Point Sources *Only*	2	0.010	3,000	0	0.03	Developmental	0.3	Arsenic
	Point Sources & UFIP Emissions	20	0.12	4,000,000	9,000	0.3	Developmental	3	Arsenic
Allowables	Point Sources *Only*	30	0.13	4,000,000	11,000	0.3	Developmental		
	Point Sources & UFIP Emissions	50	0.24	4,000,000	90,000	0.7	Developmental		

Although we did not assess multipathway risks for the example facility used to represent a ''worst case'' for UFIP emissions, the highest exposed individual for dioxins/furans in the point source modeling was not due to the example facility. Furthermore, none of the UFIP sources are known to emit dioxins/furans emissions. In addition, because mercury is emitted as a gas, UFIP emissions, which are PM, did not add to mercury emissions. See the Example Facility memorandum cited above for more information on the estimated emissions from the model facility.

Furthermore, it is important to note that after the EPA completed its risk modeling, the American Iron and Steel Institute (AISI) provided additional, more recent test data for the example facility that suggest arsenic emissions are lower than the level we estimated based on the 2011 information collection request (ICR) data that we used in our analysis (Docket ID Item No. EPA–HQ–OAR–2002–0083–0804). The AISI also conducted their own risk assessment using the new data and using the same modeling methodology that the EPA uses. The results presented by AISI (described in the EPA's proposal preamble at 84 FR 42704) indicate the MIR when the UFIP emissions are included could be about 60 percent lower than the estimated value in the EPA's risk characterization presented above (*i.e.,* 8-in-1 million compared to the EPA's estimate of 20-in-1 million) and that population risks also could be substantially lower than the EPA's estimate presented above in this preamble, with an estimated 500,000 people with risks greater than or equal to 1-in-1 million compared to the estimate of 4,000,000 in the EPA's risk characterization. Therefore, we conclude the emissions used in our risk assessment are likely conservative (upper-end) estimates.

In determining whether risks are acceptable for this source category, the EPA considered all available health information and risk estimation uncertainty that includes the uncertainty in the data from both point sources and the estimated UFIP emissions. (See proposal at 84 FR 42716, section III.C.8, *How do we consider uncertainties in risk assessment?*) A more thorough discussion of the uncertainties is included in the *Residual Risk Assessment for the Integrated Iron and Steel Manufacturing Source Category in Support of the Risk and Technology Review 2020 Final Rule,* available in the docket for this rule (Docket ID No. EPA–HQ–OAR–2002–0083).

The risk results indicate that the inhalation cancer risks to the individual most exposed could be more than 70-in-1-million but less than 90-in-1 million, as a worst case, based on the highest allowable emissions due to point sources among the industry facilities plus the conservative estimate of risk from UFIP emissions, and also considering the uncertainties in the example facility analysis as discussed above and in the proposal (84 FR 42716). This worst case risk is still below the presumptive limit of 100-in-1 million risk. In addition, there were no facilities with an estimated maximum chronic noncancer HI greater than or equal to 1 from point sources. The maximum acute HQ for all pollutants was less than 1 when we only considered point source emissions, and up to 3 based on the REL for arsenic when including exposures to estimated emissions from UFIP emissions at the example facility.

For the acute screening analyses, to better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, the EPA examined a wider range of acute health metrics, where available, including the California Reference Exposure Levels (RELs) and emergency response levels, such as Acute Exposure Guideline Levels and Emergency Response Planning Guidelines. This is in acknowledgement that there are generally more data gaps and uncertainties in acute reference values than there are in chronic reference values. The maximum acute HQ is estimated to be no more than 3 from arsenic emissions, based on the acute REL. However, for arsenic, the only available acute health metric is the REL. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures; however, the level of exposure that would cause health effects is not specifically known. As the exposure concentration increases above the acute REL, the potential for effects increases. In addition, the acute screening assessment includes the conservative (health protective) assumptions that every process releases its peak hourly emissions at the same hour, that the near worst-case dispersion conditions occur at that same hour, and that an individual is present at the location of maximum concentration for that hour. Further, the HQ value was not refined to an off-site location, which, in many cases, may be significantly lower than that estimated at an on-site receptor. Thus, because of the conservative nature of the acute inhalation screening assessment as well as the conservative bias in the UFIP emission estimates, the EPA anticipates that emissions from the Integrated Iron and Steel Manufacturing Facilities source category pose minimal risk of adverse acute health effects.

As part of the ample margin of safety analysis performed for the proposal, we

evaluated additional potential technologies for controlling point source emissions to further reduce risk from these sources, taking into consideration costs, energy, safety, and other relevant factors. We evaluated the installation of a wet electrostatic precipitator (ESP) on the exhaust of the current air pollution control devices for the BF casthouse primary units to reduce chromium VI and arsenic emissions, respectively. We also evaluated the installation of activated carbon injection (ACI) systems onto current control devices for the sinter plant windbox to reduce emissions of dioxins/furans. Details of the estimated costs and emissions reductions associated with these control measures can be found in the memorandum titled *Ample Margin of Safety for Point Sources in the II&S Industry* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0952).

We estimated the MIR could be reduced by 95, 95, and 98 percent, respectively, from 10-in-1 million, 70-in-1 million, and 40-in-1 million for BF chromium actual emissions, BOPF arsenic allowable emissions, and sinter plant dioxins/furans actual emissions as toxic equivalents, respectively. However, we did not propose any of these control scenarios because of the relatively high capital and annualized costs compared to a relatively low amount of emissions reduced. Cost-effectiveness estimates were determined to be $1.9 billion/ton ($940,000/lb), $46 million/ton ($23,000/lb), and $188 billion/ton ($94 million/lb) for BF chromium, BOPF arsenic, and sinter plant dioxins/furans, respectively. None of these options were considered cost effective.

We also considered potential work practices to reduce UFIP emissions as part of the ample margin of safety analysis. The EPA identified work practices that could achieve HAP reductions from the seven UFIP sources, such as more frequent measurements (*e.g.,* opacity, internal furnace conditions) to identify problems earlier, increased maintenance, applying covers on equipment, developing operating plans to minimize emissions, optimizing positioning of ladles with respect to hood faces, and earlier repair of equipment. We estimated these work practices would achieve a range of 50- to 90-percent reduction in UFIP emissions (*i.e.,* control efficiency) from these sources, based on EPA staff judgment as to the potential effectiveness of the work practices. In analyzing post-control scenarios, we assumed the work practices would achieve 70-percent reduction in emissions (the midpoint between 50 and 90 percent), corresponding to an estimate of 185 tpy of HAP reduced, assuming work practices were required for all seven UFIP sources. A description of the uncontrolled UFIP emissions and an estimate of emissions after implementation of work practices are provided in the Example Facility memorandum cited above.

To estimate the risk reductions that could be achieved from the UFIP sources via work practices, we developed a model input file to reflect the estimated emissions reductions that would be achieved under two control options and modeled two post-control scenarios for the example facility to estimate risk reductions. We analyzed two options: Option 1 would establish work practice standards for two of the UFIP sources (BF casthouse fugitives and BOPF shop fugitives), which contribute about 70 percent of the MIR and are currently regulated via opacity standards; Option 2 would establish work practice standards for all seven of the UFIP sources. Potential work practices for the two UFIP sources in Option 1 were the same in Option 2. We assumed a control efficiency of 70 percent for the work practices as the average of an assumed range of 50-percent to 90-percent control efficiency for the work practices. Details of the work practices for UFIP and estimated costs of the work practices can be found in the memorandum titled *Ample Margin of Safety for Nonpoint Sources in the II&S Industry* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0953).

Based on this modeling assessment, we estimated Option 1 would reduce the MIR from 20-in-1 million to about 10-in-1 million for the example facility, the estimated population with risks greater than or equal to 1-in-1 million would decrease from 4,000,000 to 1,500,000, and the estimated population with risks greater than or equal to 10-in-1 million would decrease from 9,000 to 800. In addition, the maximum acute HQ would decrease from 3 to 2. This option also would achieve reductions in PM with a diameter of 2.5 micrometers or less ($PM_{2.5}$). For Option 2, we estimated the work practices would reduce the MIR from 20-in-1 million to about 9-in-1 million for the example facility, the estimated population with risks greater than or equal to 1-in-1 million would decrease from 4,000,000 to 800,000, and the estimated population with risks greater than or equal to 10-in-1 million would decrease from 9,000 to 0. Also, the maximum acute HQ would decrease from 3 to 0.9. This option would also achieve reductions in $PM_{2.5}$.

We estimated the total capital costs of Option 1 for the source category would be approximately $1.4 million, annualized costs would be approximately $1.7 million per year, and HAP reductions would be approximately 173 tpy of HAP, which corresponds to a cost-effectiveness value of approximately $10,000/ton. This estimate was based on cost estimates for individual emission units that were projected to the entire industry based on the number of units of each type at each facility. For Option 2 for the source category, we estimated the total capital costs would be approximately $8.7 million, annualized costs would be approximately $3 million per year, and HAP reductions would be approximately 185 tpy, which corresponds to a cost-effectiveness value of approximately $16,000/ton HAP.

Considering all of the health and environmental risk information and factors discussed above, including the substantial uncertainties regarding our estimates of UFIP emissions, and the costs and cost effectiveness of the work practices, the EPA proposed that risks from the Integrated Iron and Steel Manufacturing Facilities source category are acceptable and that revision of the standards is not required in order to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect.

2. How did the risk review change for the Integrated Iron and Steel Manufacturing Facilities source category?

No changes were made to the risk review in the final rule. As mentioned above, we received new arsenic performance test data and an industry conducted risk assessment for the example facility from industry shortly before proposal suggesting arsenic emissions and risks are about 60 percent lower than our estimates.[3] (See 84 FR 42720 (August 16, 2019) for more discussion). However, we did not rerun the risk model after proposal because of the court-ordered schedule to complete the final rule[4] and because it would not affect the outcome of the final rule. We proposed risks were acceptable and the NESHAP provided an ample margin of safety to protect public health. Based on

[3] Letter and attachment from P. Balserak, AISI, Washington, DC, to C. French, U.S. EPA, Research Triangle Park, NC. 34 pages. February 4, 2019. (Docket ID Item No. EPA–HQ–OAR–2002–0083–1014).

[4] The EPA is required by court order to complete the RTR for the Integrated Iron and Steel Manufacturing Facilities source category by May 5, 2020. *Calif. Communities Against Toxics* v. *Wheeler,* No. 1:15–cv–00512, Order (D.D.C. March 13, 2017, as modified February 20, 2020).

consideration of comments and information received through the comment period, we continue to conclude risks are acceptable and that the NESHAP provides an ample margin of safety to protect public health.

3. What key comments did we receive on the risk review, and what are our responses?

This section provides a summary of key comments and responses regarding the risk review. A summary of all other public comments on the proposal related to the risk review and the EPA's responses to those comments is available in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–0083). With regard to UFIP emissions and potential work practices, key comments and responses in regard to risk are discussed below. Other key comments and responses are discussed under the sections in this preamble on technology review (Section IV.B of this preamble) and UFIP (Section IV.F). The remainder of the UFIP comments and responses are discussed in the response to comment document cited above.

Comment: One commenter stated the EPA has failed to provide an ample margin of safety. The commenter stated at the ample margin stage, the EPA refuses to address the fact that the health risks are quite high. The EPA must consider how to assure an ample margin of safety to protect public health from the systemic harm implied by this risk value. Yet, the EPA does not discuss or find that it is providing any margin, much less an ample one, to protect people from the emissions causing the carcinogenic, chronic noncancer, and acute risks it also found.

In contrast, a different commenter stated the conservative residual risk estimates in the proposal are already well below the presumptively acceptable risk threshold, despite being artificially inflated due to inaccurate emissions inputs and modeling parameters. Thus, the Agency's proposed determination that no additional regulatory requirements are necessary to provide an ample margin of safety or to prevent adverse environmental effect in light of relevant factors including safety and costs is unquestionably reasonable and appropriate.

Response: We acknowledge the comments supporting the EPA's ample margin of safety analysis and the determination that risks are acceptable and no additional regulatory requirements are necessary to provide an ample margin of safety or to prevent adverse environmental effect. A summary of the EPA's ample margin of safety analysis is provided in section IV.A.1 of this preamble and in the proposal preamble (84 FR 42704). Further details are provided in the memorandum titled *Ample Margin of Safety Analysis for Point Sources in the Integrated Iron and Steel Industry* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0952). In this memorandum, we estimate the remaining risk after implementation of potential control technologies and work practices along with the costs of these controls and work practices.

The EPA disagrees with the comments that the EPA failed to satisfy the CAA requirement to provide an ample margin of safety and only addressed whether cost-effective measures were identified for reducing HAP emissions. The EPA uses "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand," as stated in the Benzene NESHAP (54 FR 38045), followed by a second step to set a standard that provides an "ample margin of safety," in which the EPA considers whether the emissions standards provide an ample margin of safety to protect public health in consideration of all health information, including the number of persons at risk levels higher than, approximately, 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.

As explained above, we determined, based on our risk analysis, the risks from the source category are acceptable and that no additional regulatory requirements are necessary to provide an ample margin of safety to protect public health.

Regarding potential controls for point sources (described in section IV.A.1 of this preamble), we determined these controls would reduce risks, but were not cost effective. The calculated cost-effectiveness values were $940,000/lb, $23,000/lb, and $94 million/lb for HAP removed from BF (chromium VI), BOPF (arsenic), and sinter plants (dioxins/furans), respectively.

With regard to the UFIP and potential work practices, consistent with our explanation in the proposed rule (see 84 FR 42704), based on consideration of all our analyses and related information, including the risk results, costs, and uncertainties, we have determined that no additional standards are required under CAA section 112(f) and that the current NESHAP provides an ample margin of safety to protect public health. This decision is based largely on the substantial uncertainties in the estimates of the baseline HAP emissions from UFIP emission sources, costs of the work practices, HAP risk reductions that would be achieved by the work practices, and uncertainties raised by industry in their comments regarding potential effects of the work practices on the facilities' operations, safety, and economics.

Comment: One commenter stated the multipathway risk did not include UFIP sources. Since the EPA only considered UFIP emissions from the one facility, the commenter inquired about the population that resides in the area impacted by all four mills along a short 20 mile stretch of northwest Indiana. The commenter questioned whether the cumulative risk from inhalation from total point, and UFIP sources for people who live within the impacted areas from all of these mills together was addressed because it does not appear to have been assessed in this proposal. The commenter asserted the EPA has significantly underestimated the exposure for people who live near more than one of the four mills in an approximately 20-mile area of northwest Indiana. The commenter stated the EPA's risk model results, when UFIP emissions are included for the example facility alone, increase by an order of magnitude. The commenter asserted that by itself this should have made it imperative that the EPA consider UFIP sources as important as point sources in quantifying emissions and risks and considering control measures in the final rule.

Another commenter stated documents in the rule docket show serious, harmful, and major releases of pollution, demonstrated in photographs and in high opacity or visible smoke, and in inspections and communications with enforcement officials. The commenter asserted that this information shows the need for stronger standards under each provision of the CAA. The commenter concluded that by not including UFIP emissions in its multipathway assessment, the EPA has underestimated health risks and the already high health threats communities are facing. The commenter stated the EPA has recognized that its residual risk assessment fails to account for several types of pollution that the EPA calls UFIP emissions. The commenter stated the EPA is also refusing to complete a risk assessment for all sources, including the UFIP emission points, and

this is unlawful. The commenter asserted the EPA needs to complete a new risk assessment study, where they include all of the risk factors, to protect the health of Americans that are living around these steel facilities.

Response: The commenter is correct that the UFIP emissions were considered later in the process of developing the RTR and, therefore, were not included in the quantitative multipathway analysis. The EPA would not have been able to meet the RTR court-ordered deadline if the multipathway analysis was repeated to include UFIP emissions or if the risk assessment was repeated to include UFIP emissions from all facilities. However, we qualitatively considered the potential impact of UFIP emissions on the multipathway analysis and concluded that including UFIP emissions would not have affected the results or conclusions of the analysis. Specifically, the HAP driving the risks in the multipathway analysis were dioxins/furans from sinter plants (with a cancer risk estimate for the highest exposed individual of 40-in-1 million from the fisher scenario). In contrast, the UFIP HAP emissions are particulate HAP metals (such as arsenic) from the BF and BOPF related sources, and do not include dioxins/furans. The combined metal HAP from all point sources at the three facilities in the multipathway analysis showed a significantly lower risk (with a cancer risk estimate of 2-in-1 million from arsenic emissions from the gardener scenario) as compared to the risk estimated from dioxins/furans noted above. Therefore, even if we took estimated arsenic emissions from UFIP sources into account in the multipathway analysis, the multipathway risks from the gardener scenario would almost certainly remain lower than the dioxins/furans risk from the fisher scenario. Thus, we have no reason to believe that including arsenic emissions from UFIP sources in the multipathway analysis would alter our conclusion from the multipathway analysis.

Obtaining measurements of UFIP emissions via source testing to combine with the point source emissions was not possible due to the court-ordered deadline and, more importantly, because measurement of UFIP sources would be very difficult, if not impossible, for some sources. To balance the difficulty of obtaining reasonably accurate information on HAP emissions from UFIP sources with the importance of gaining some understanding of the potential risk from UFIP, we modeled a very large facility with the highest expected UFIP (and HAP) emissions, which is also close to a large urban area to estimate the potential upper-end risks due to such emissions. Using the example facility analysis was also a time-saving measure in lieu of estimating UFIP emissions for the entire industry via emission factors.

Comment: One commenter stated the EPA found that a list of effective controls, work practices, and monitoring methods for UFIP sources could achieve HAP reductions from the seven UFIP sources. The commenter stated the EPA's findings are extensive, and are noted as being available, with emissions "preventable," with many practices identified as "having no or minimal cost" (ample margin of safety memorandum at 7), and that some facilities are actually using currently. See, *e.g.,* Id. at 7–15. The commenter further stated the EPA found that the experience of its regional staff provided the reason for consideration of these controls. The commenter continued that the EPA recognized some iron and steel sources have had serious compliance problems in the past and highlighted some provisions, like stronger monitoring, that would reduce and prevent those problems. The commenter stated the EPA also provided photographs (at undisclosed locations) that show huge visual releases of HAP metals and other pollution into the air from bell leaks, beaching, and BF slips. The commenter noted that the care the EPA staff took to research, compile, and discuss the important pollution control methods is appreciated.

The commenter stated the Ferroalloys and Secondary Lead Smelting NESHAP each include a number of methods or variations on the methods described in the Integrated Iron and Steel Manufacturing Facilities RTR proposal to reduce metal HAP emissions from UFIP—such as requiring total or partial building enclosure with negative pressure. In addition, the commenter asserted the EPA has recognized the need to prohibit uncontrolled releases of HAP to the atmosphere from planned or unplanned openings at other kinds of facilities. For example, the commenter noted that the EPA, in a long list of CAA section 112 rulemakings in recent years, has repeatedly prohibited uncontrolled HAP releases that vented directly to the atmosphere rather than being routed to a control device.

The commenter stated the EPA ultimately proposes not to require any of the work practices, referring to "uncertainties regarding the effect the work practice standards would have on facility operations, economics, and safety." The commenter stated the EPA's own analyses and direct observations all support better characterizing UFIP emissions and implementing the basic cost-effective control measures and work practices the EPA has already explored to some extent. To not do so, the commenter asserted, would be to ignore the EPA's own analyses of the impacts to human health and the environment of the UFIP emissions from the mills in these highly affected areas, and miss the opportunity to implement easy cost and industry-friendly actions that would go far to reduce impacts to the nearby communities, land, and waterways. The commenter asserted the EPA may not lawfully or rationally refuse to set emission standards that reflect the emission reduction methods available.

Response: We agree with the commenter that work practices to reduce UFIP emissions are available. However, due to the substantial uncertainties regarding the emissions estimates, the uncertainties regarding the costs and effectiveness of the work practices, and potential negative effects of the work practices on facility operations, economics, and safety that were asserted by industry representatives (see below in their detailed comments), the EPA is not promulgating any work practice requirements for UFIP sources in this final rule at this time. Because we conducted a risk assessment for the largest facility in the source category to examine a worst-case scenario for UFIP sources in the industry (as described in detail in section IV.A of this preamble) and determined that risks posed by emissions from the source category were acceptable, and due to the uncertainties and other factors described above, we conclude that the NESHAP provides an amply margin of safety and additional standards, such as work practices described above, are not necessary. In addition, because of the same uncertainties and potential impacts described above for the UFIP sources and work practices, we also are not promulgating any work practice standards under CAA section 112(d)(6) for the two regulated UFIP sources in this action.

Comment: One commenter stated the EPA is right to conclude that additional control technologies, including wet ESPs for BF casthouses and BOPF shops and ACI systems for sinter plant windboxes would not provide cost-effective emissions reductions, given the extremely high costs associated with small incremental additional reductions of HAP.

The commenter asserted that the EPA's "very high" cost estimates are

actually low, *i.e.,* underestimated, and that the removal rate estimates are high, *i.e.,* overestimated. The values that the EPA calculated are so clearly not cost effective, however, that further analysis of these costs and reduction levels is unnecessary to reject them under an ample margin of safety analysis. The EPA's proposed determination is, thus, well within the substantial discretion afforded to it under the Court's *Vinyl Chloride* decision and should be finalized.

Response: We acknowledge the comments supporting the EPA's proposed determination that no new standards are required to provide an ample margin of safety to protect public health and that the costs of the control technologies evaluated and emission reductions estimated in the ample margin of safety analysis were not in the range generally determined to be cost effective by the EPA. The costs of additional controls are disproportionately high considering the reductions in risk that are achievable.

Comment: One commenter stated it is arbitrary for the EPA to find risk acceptable in view of additional evidence of uncertainty in the record. The EPA should find the current health risks to be unacceptable because of the omissions, underestimates, and uncertainties its own risk assessment contains. The EPA has failed to show, based on evidence in the record, that the risks are not significantly higher than the values it has presented. The EPA has failed to justify its acceptability determination when such major gaps are present.

Response: As stated in the proposal rulemaking, the estimated combined worst-case, upper-end risks (point and UFIP) are below the presumptive limit of acceptability of 100-in-1-million and the noncancer results indicate there is minimal likelihood of adverse noncancer health effects due to HAP emissions from this source category. As we explained in the proposal preamble, the EPA's risk results indicate that the inhalation cancer risks to the individual most exposed are less than 90-in-1 million, as a worst case, considering the highest allowable risk due to point sources among the industry facilities plus the conservative estimate of risk from UFIP emissions due, in part, to the use of the largest facility as the example facility. Furthermore, we conclude that by using the UFIP emissions estimate from the example facility plus the highest allowable point source risk to represent the worst case risk scenario for the industry mitigates any potential concerns regarding the lack of UFIP emissions estimates and associated UFIP associated risks for each individual facility. Furthermore, we did not receive any data or information through the public comment process that would change our proposed determination that risks are acceptable.

Comment: One commenter stated the EPA's ICR did not collect emissions data information on UFIP sources or all HAP emitted, controlled and uncontrolled. The EPA assessed additional particulate and metal HAP emissions from UFIP sources not addressed in the ICR through estimates based on "literature values for PM from these or other similar emission points and ratios of HAP to PM developed from the ICR data." The commenter also stated the EPA's "actual" analysis of risk is based on an emission inventory that is largely calculated from emission factors and engineering judgment. The commenter asserted that it is well-documented that emission factors underestimate emissions for a variety of reasons including inherent bias in the factors themselves and the inability to account for equipment malfunctions and environmental conditions. The commenter stated the EPA cannot rationally base emission estimates or risk assessments on data it has strong reason to doubt. The commenter stated the EPA must collect actual emissions data to support its emissions estimates. The commenter argues that, to the extent actual data is not collected, the Agency must adjust the emissions inventory using these same conclusions from the technology review and the large body of scientific evidence that show emissions factors underestimate emissions, in order to ensure that the inventory better represents reality and reflects actual emissions.

One commenter stated that the proposal's UFIP source analysis (*i.e.,* effort to quantify UFIP emissions) is based on no sampling or engineering analysis, but on very dated studies and emission factors that are poorly rated. While it is more difficult to characterize the emissions from UFIP sources, the commenter asserted that methods do exist that can help in properly characterizing UFIP emissions. The commenter stated these include grab sampling followed by HAP characterization, use of process knowledge, and engineering assessment/modeling. The commenter asserted that each of these methods could have been used by the EPA to better characterize potential HAP emissions from UFIP.

Response: The commenter is correct that EPA did not require HAP testing from these UFIP sources in the ICR in 2011. The EPA did not have a good understanding of the UFIP sources at the time of the ICR in 2011. Furthermore, it would have been quite difficult to reliably measure the UFIP emissions at that time due to the nature of such emissions and lack of test methods to reliably quantify emissions from these sources for use in the RTR. However, note that we did not use an inventory for any analyses in this RTR, for UFIP or otherwise.

The HAP to PM ratios that were used along with the estimates of PM emissions from UFIP to calculate HAP emissions estimates for UFIP sources for the risk assessment for this action were obtained from ICR source tests and are as good, in terms of quality and, therefore, accuracy, if not better than the grab samples that the commenter suggests because the ICR stack tests were performed continuously over a period of hours providing a composite profile of HAP emissions, whereas grab samples would have been instantaneous and only reflect a discrete moment in time. The EPA used all of the other methods recommended by the commenter to estimate emissions from UFIP sources, specifically: HAP characterization, use of process knowledge, and engineering assessment/modeling, as described in the technical memorandum titled Development of Emissions Estimates for Fugitive or Intermittent HAP Emission Sources for an Example Integrated Iron and Steel Facility for Input to the RTR Risk Assessment (Docket ID Item No. EPA–HQ–OAR–2002–0083–0956), hereafter called the "Example Facility" memorandum.

The emission factors used in the example facility analysis were, in most cases, from a number of test reports from various and different facilities that were evaluated and combined into one overall emission factor for each of the seven UFIP sources. Environmental conditions and malfunctions are not included in data used to develop EPA emission factors and the latter are never included in any part of an emission factor analysis. In addition, we have no evidence that based on current industry operation the EPA's emission factors are biased low, in general, *i.e.,* for typical or average conditions. Engineering judgment was used when portions of the emission estimates were missing and was conservative in nature. An analysis using limited ambient emission data previously obtained by the EPA in the vicinity of the example facility, included in the "Example Facility" memorandum (Section 7 and Appendix G), indicates the EPA's emissions estimates for UFIP at the example facility are plausible.

4. What is the rationale for our final approach and final decisions for the risk review?

Based on consideration of comments, and all of the health risk information, factors, results, and uncertainties discussed above and in the proposal (84 FR 42704), we conclude the risks due to HAP emissions from this source category acceptable. Furthermore, based on the analyses described in the proposal and elsewhere in this preamble, including the evaluation of potential controls and work practices to reduce emissions and risks, and the costs, effectiveness, and uncertainties of those controls and work practices, and after evaluating comments, we conclude the NESHAP provides an ample margin of safety to protect public health. Finally, based on our evaluation of environmental risks, we conclude that more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, we are not promulgating any additional control requirements pursuant to CAA section 112(f)(2), but instead are readopting the existing standards.[5]

B. Technology Review for the Integrated Iron and Steel Manufacturing Facilities Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Integrated Iron and Steel Manufacturing Facilities source category?

In the proposed technology review, we evaluated the cost effectiveness of upgrading fume/flame suppressants used for control of fugitive PM and HAP metal emissions from BF to use of baghouses as control devices. We also evaluated process modifications found in European literature to further reduce dioxins/furans emissions from sinter plants; these potential process controls for dioxins/furans emissions were in addition to the add-on control devices considered for sinter plants under the ample margin of safety analysis for point sources described above. The technology reviews for these two emissions sources were discussed in detail in the proposal (84 FR 42704) and the technical memorandum titled *Technology Review for the Integrated Iron and Steel NESHAP* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0964).

In the proposed technology review, the EPA also evaluated potential work practices to reduce nonpoint source emissions from the BF casthouse and BOPF shop (84 FR 42704). However, the EPA did not propose any of these work practices primarily because there are significant uncertainties in the technical assessment of UFIP emissions that includes estimates of the baseline UFIP emissions, the estimated HAP reductions that would be achieved by the work practices, and the costs of the work practices. In addition, there also are uncertainties in the effect the work practices would have on facility operations, economics, and safety. Based on all our analyses and uncertainties described above, the EPA proposed to find that there are no developments in practices, processes, or control technologies that necessitate revising the standards for these two UFIP sources under CAA section 112(d)(6).

Considering all the information evaluated in our technology reviews for upgrading fume/flame suppressants control on BFs, sinter plant process modifications, and the potential work practices to reduce UFIP emissions from BF casthouse and BOP shop, we did not identify any developments in practices, processes, or technologies that warrant revision of the NESHAP for the currently regulated point or nonpoint sources under section 112(d)(6) of the CAA and, therefore, did not propose any changes to the NESHAP pursuant to section 112(d)(6) of the CAA.

a. Upgrading Fume/Flame Suppressants at BFs to Baghouses

Emissions from BFs are controlled in the integrated iron and steel industry in one of two fundamentally different ways: (1) Fume and flame suppression techniques or (2) conventional ventilation practices that route exhaust air to control devices such as baghouses. Fume suppression consists of blowing natural gas over the open equipment which retards vaporization and prevents emissions. With flame suppression, the natural gas is ignited with accompanying oxygen consumption that suppresses the formation of metal oxide emissions. The use of fume/flame suppressants for control of fugitive BF casthouse emissions is estimated to have 75-percent control, whereas control with baghouses is estimated to have 95-percent control.

There are a total of eight BFs with fume/flame suppressants distributed at four facilities among the 21 BFs total at 11 integrated iron and steel facilities. Per-unit capital costs for converting from fume/flame suppressant control to baghouses was estimated to be $18 million with $2.7 million in annual unit costs, where some facilities have two or three units. Total industry costs are estimated to be $140 million in capital costs and $22 million in annual costs. The estimated cost effectiveness of upgrading the fume/flame suppressant control to ventilation and baghouses at all eight BFs is $7 million/ton of metal HAP with 3 tpy of HAP removed, and $160,000/ton PM with 120 tpy of PM removed. We concluded these controls were not cost effective and, therefore, we did not propose to require baghouses to be installed on BFs as a result of the technology review.

b. Process Modifications To Control Dioxins/Furans at Sinter Plants

There are three facilities in the Integrated Iron and Steel Manufacturing Facilities source category that have sinter plants. The sinter plants are currently regulated by PM and opacity limits on the windbox exhaust stream, sinter cooler, and discharge end of sinter plants. In addition, the sinter plant windbox is regulated for organic HAP with compliance demonstrated by either meeting a VOC limit or a limit on oil content of the sinter feed. Dioxins/furans are components of the organic HAP but because of their higher toxicity, they often are evaluated separately under control scenarios. Therefore, our technology review included exploration of potential control measures that could further reduce dioxins/furans from sinter plants.

For the proposal, we conducted a literature search and reviewed various technical publications (largely from Europe and other countries in the Stockholm Convention[6]) regarding potential control technologies and practices to reduce dioxins/furans from sinter plants and found a number of potential options that could potentially be applied at sinter plants in the U.S.[7][8][9] These options include urea injection to inhibit dioxins/furans formation; partial

[5] The Court upheld this approach to CAA section 112(f)(2) in *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008): "If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking."

[6] *Stockholm Convention on Persistent Organic Pollutants (Pops), Texts and Annexes.* Revised in 2017. Published by the Secretariat of the Stockholm Convention, Geneva, Switzerland. May 2018. Available at: *http://www.pops.int.*

[7] Ooi, T. C. and L. Lu. *Formation and mitigation of PCDD/Fs in iron ore sintering.* Chemosphere 85 291–299. 2011.

[8] Boscolo, M.E., Padoano, and S. Tommasi. *Identification of possible dioxin emission reduction strategies in preexisting iron ore sinter plants.* Institute of Materials, Minerals and Mining. Published by Maney on behalf of the Institute. Ironmaking and Steelmaking. 15:35:11.The Charlesworth Group, Wakefield, UK. October 19, 2007.

[9] Lanzerstorfer, C. *State of the Art in Air Pollution Control for Sinter Plants.* Chapter 18, in *Ironmaking and Steelmaking Processes.* P. Cavaliere, Ed. Springer International Publishing, Springer Nature, Switzerland AG. 2016.

windbox exhaust gas recirculation; post-exhaust windbox chemical spray (monoethanolamine and triethanolamine dissolved in water and sprayed onto exhaust); and elimination of certain inputs (*e.g.,* no ESP dust). The European Union also included these measures in their 2013 Best Available Technology evaluation.[10]

As far as we knew at proposal, none of these technologies or practices were currently used at sinter plants in the U.S. However, based on the literature cited above, we believe some of these technologies or measures may be used to control dioxins/furans in other countries (such as in Europe and other countries complying with the Stockholm Convention).

We were not able to estimate the costs of these control methods due to lack of cost information in the literature, nor were we able to estimate the feasibility for U.S. facilities. Based on the analysis set forth in the proposal, we did not propose to require process modifications to control dioxins/furans at sinter plants as a result of the technology review.

c. Work Practices as a Potential Measure To Reduce UFIP Emissions From BF Casthouses and BOPF Shops

As described in the proposal, we evaluated potential work practices to reduce uncaptured fugitive emissions from BF casthouses and BOPF shops under our technology review. The estimated capital costs for work practices for these two nonpoint sources were $1.4 million and annualized costs were $1.7 million. We estimated these work practices would achieve about 173 tpy reduction in metal HAP, at an average combined cost effectiveness of $10,000 per ton.

After considering all the information and analyses, we proposed to find that there were no developments in practices, processes, or control technologies that necessitate revising the standards for these two UFIP sources under CAA section 112(d)(6). This decision was based largely on the considerable uncertainties in the technical assessment of UFIP emissions that includes estimates of the baseline UFIP emissions, the HAP emission reductions that would be achieved by the work practices, and the costs of the work practices. In addition, as indicated by the industry in their comments, there are also uncertainties with regard to the effect the work practices would have on facility operations, economics, and safety.

2. How did the technology review change for the Integrated Iron and Steel Manufacturing Facilities source category?

No changes were made to the technology review in the final rule from that proposed for the Integrated Iron and Steel Manufacturing Facilities source category (84 FR 42704).

3. What key comments did we receive on the technology review, and what are our responses?

This section provides a summary of key comments and responses regarding the technology review. Related comments and responses in regard to UFIP emissions are discussed in sections IV.A.3 and IV.F.3 of this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–0083).

Comment: One commenter stated the record contradicts the EPA's conclusion of no developments for point sources. The evidence shows, "that there are many techniques to control dioxins/furans emissions from sinter plants," through process modifications controls such as windbox gas recirculation or chemical treatment of windbox exhaust, and these are in use at European facilities. Tech. Review Memo at 21. The commenter said that the EPA found chemical treatment could achieve 40- to 90-percent control and that the EPA concluded that the cost effectiveness and success of application of these techniques in the U.S. is not known. *Id.* at 19–20. The commenter stated that the EPA gave no justification for why the application should be different in the U.S., however, nor any evidence showing that these could not be applied or should not be applied in the U.S. The commenter also claimed that the European Union actually requires BAT for control of dioxins/furans emissions and stated that the EPA has no lawful or rational basis to refuse to revise the emission standards to "tak[e] into account" these techniques when they are plainly "developments" within the meaning of CAA section 112(d)(6). *Id.* at 20.

The commenter stated the EPA's claims about the cost effectiveness of ACI in the proposal were made in the context of its separate CAA section 112(f) analysis (84 FR at 42725) and that the EPA did not evaluate ACI in the context of its CAA section 112(d)(6) analysis. *Id.* at 42729. The commenter also claimed that the EPA's findings under CAA section 112(f)(2) cannot possibly satisfy the Agency's obligations under the separate and different requirements of CAA section 112(d)(6). Stating what the EPA believes ACI costs does not show that ACI is not cost effective and is irrelevant under CAA section 112(d)(6). Equally irrelevant is whether or not ACI would reduce health risks. The focus under CAA section 112(d)(6), is how much reduction is achievable and not the EPA's views about risk or the value of reducing it.

The commenter stated moreover, the Agency grossly underestimates this technology's cost effectiveness by considering it only for one HAP at a time, as if iron and steel sources would have to purchase and install ACI once to control dioxins/furans, and again to control other pollutants. 84 FR 42726 (August 16, 2019). The commenter stated the EPA's irrational failure to recognize the actual benefits of ACI on multiple HAP is arbitrary and unlawful.

In addition, the commenter asserted that the Agency pretends that cost effectiveness must be measured in dollars per ton even for pollutants like mercury and dioxins/furans for which such a measure is "ridiculous." The commenter explained that dioxins/furans are measured in millionths of a gram, and they are toxic in the millionths of a gram. Further, the commenter elaborated that all the industries in the nation do not emit a single ton of dioxins/furans in a year. The commenter posited that giving the cost effectiveness for ACI in dollars per ton of dioxins/furans is meaningless and that by doing so the EPA is simply obscuring the facts by using absurdly irrelevant units to make ACI look as though it is not cost effective to support its rejection of an extremely effective and cost-effective technology.

The commenter stated failing to present all of the underlying information the EPA relied on for its CAA section 112(d)(6) determination—including, *e.g.,* the title V permits to which it refers—makes it impossible for the public and for a reviewing court to evaluate the EPA's conclusory determination that there are "no developments" requiring revision.

In contrast, a different commenter stated as part of the technology review, the EPA considered a number of process

[10] *Best Available Techniques (BAT) Reference Document for Iron and Steel Production.* Industrial Emissions Directive 2010/75/EU (Integrated Pollution Prevention and Control). R. Remus, M. A. Aguado-Monsonet, S. Roudier, and L. D. Sancho. European Commission, Joint Research Centre, Institute for Prospective Technological Studies. European IPPC Bureau, Seville, Spain. Luxembourg Publications Office of the European Union. doi:10.2791/97469. 2013.

modifications to provide additional reductions of dioxins/furans emissions from sinter plants but appropriately chose not to propose to require them based on inadequate information. The commenter stated that the EPA reasonably determined not to focus on additional control technologies for sinter plants during the technology review, which are already subject to limits on organic HAP emissions (through either a VOC limit or an oil content limit for the sinter feed). Based on the incredibly high estimated cost-effectiveness numbers, the commenter stated that the EPA proposes that these additional control technologies would not be cost effective and proposes not to require them. Although the commenter stated that the EPA's cost estimates appear unrealistically low and the estimated emissions reductions too high, even with those flawed assumptions the commenter stated that the EPA calculated such staggeringly high cost-effectiveness values that further analysis is unnecessary to establish that these controls are not appropriate to impose pursuant to the technology review. The commenter stated the process modifications the EPA evaluated are not used at any facility in the Integrated Iron and Steel Manufacturing Facilities source category but, rather, were identified during the EPA's literature review from primarily European sources. Sinter plant emissions are already regulated by PM and opacity limits, as well as a VOC limit or limit on sinter feed oil content to regulate organic HAP emissions, including dioxins/furans. The commenter stated that the EPA nonetheless looked to identify the potential process changes in its literature review to yield further dioxins/furans emission reductions. The commenter stated that none of the process changes that the EPA identified warrant revision of the 40 CFR part 63, subpart FFFFF standards for sinter plants. The industry reviewed the materials from the EPA's literature review described in the proposal; however, the commenter stated that the EPA did not provide adequate information to properly evaluate the potential effectiveness, costs, or other issues associated with the process changes discussed therein. Because there has not been a meaningful opportunity to review and comment on any potential requirement the EPA could impose on the basis of that insufficiently clear literature, the commenter stated that none should be adopted in the final rule.

Response: At proposal, we evaluated ACI as a means of reducing dioxins/furans emissions from sinter plants and used the information and data we collected to inform both our ample margin of safety analysis under CAA section 112(f) and our technology review under CAA section 112(d)(6). In addition, we investigated potential process modifications to reduce emissions for the sinter plants under CAA section 112(d)(6). None of the process technologies or practices identified to control dioxins/furans in European sinter plants are currently used at sinter plants in the U.S. Therefore, we were not able to estimate the costs of these control methods due to lack of cost information in the literature, nor were we able to determine the feasibility for U.S. facilities or whether the European facilities that are applying these process modifications are similar enough to U.S. facilities to enable adoption of the same control techniques. Considering all the information in our technology reviews, we did not identify any developments in practices, processes, or technologies that warrant revision of the NESHAP for sinter plants.

We agree with the first commenter that dioxins/furans are commonly expressed in grams. However, in the RTR proposal (84 FR 42704), we provided the emissions for dioxins/furans in measurement units typically used for most other HAP (*i.e.,* tons and lbs) for consistency purposes. Changing measurement units does not change the relative impact of this analysis compared to previous EPA analyses for dioxins/furans.

We agree with the first commenter that we did not specifically discuss ACI for dioxins/furans in the technology review sections of our RTR proposal preamble. However, in the memorandum titled *Technology Review for the Integrated Iron and Steel NESHAP* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0964), we explained (on page 17 of 22) that although add-on controls are available, the focus for the technology review was on process modifications because add-on controls (*i.e.,* ACI) for dioxins/furans emissions were shown not to be cost effective at sinter plants at integrated iron and steel facilities in the ample margin of safety analysis. For details of this analysis, see the memorandum titled *Ample Margin of Safety Analysis for Point Sources in the Integrated Iron and Steel Industry* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0952).

In terms of multiple pollutant control, for the purpose of this comment, because dioxins/furans are quite different than other HAP, we typically would not add together the mass of other individual HAP together with dioxins/furans to generate a cost effectiveness value for the sum of HAP, such as in units of dollars per ton of total HAP or lbs per ton of total HAP. Nevertheless, in response to the comment, we estimated the cost effectiveness to control VOC, such as benzene, toluene, ethyl benzene, and xylene (BTEX), and carbonyl sulfide (COS) with ACI. Using the same annual costs for ACI described for control of dioxins/furans (see 84 FR 42725 (August 16, 2019) and also Docket ID Item No. EPA–HQ–OAR–2002–0083–0952), at $1,849,781 per year, and assuming 85-percent control of BTEX and COS with ACI (average of vendor estimate of 80 to 90 percent),[11] the estimated cost effectiveness for BTEX and COS co-control is approximately $14,000/ton, which is above the range that the EPA has typically considered cost effective for volatile HAP. Consequently, we continue to conclude that ACI is not cost effective for sinter plants, whether we consider ACI for only dioxins/furans controls or if we consider costs and cost effectiveness of the other HAP as well, and we are not promulgating any new or revised standards for sinter plants under the technology review pursuant to CAA section 112(d)(6).

We disagree with the comment that claims the EPA did not provide the underlying information the EPA relied on for its CAA section 112(d)(6) determination. The EPA provided all the relevant supporting information in the proposal preamble or technical memoranda, including the *Technology Review for the Integrated Iron and Steel NESHAP* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0964) and *Ample Margin of Safety Analysis for Point Sources in the Integrated Iron and Steel Industry* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0952). Regarding the title V permits, we made no reference to title V permits in this rule package or any of the supporting materials and technical memoranda; therefore, we cannot address the commenter's points on this issue.

Comment: One commenter stated the EPA cannot justify leaving other non-mercury emissions completely uncontrolled. Refusing to set limits on all uncontrolled pollutants that iron and steel sources emit is both unlawful and arbitrary. The commenter stated that the EPA's emission standards for iron and

[11] Telecommunication. Raymond, G., RTI International, Research Triangle Park, North Carolina, with C. Allen, Carbon Activated Corporation, Blasdell, New York. January 27, 2020.

steel plants lack any limits at all for certain HAP, such as hydrochloric acid (HCl), hydrogen cyanide (HCN), and COS, either direct or through a surrogate. Specifically, the iron and steel plants emit 12 tpy HCl, 4 tpy HCN, and 72 tpy COS. Although the EPA has set certain requirements that purport to be limits on VOC, it has not set any limit for iron and steel plants' emissions of COS. Indeed, when the EPA promulgated the Integrated Iron and Steel Manufacturing Facilities standards, it did not even recognize that they emit COS. Instead, the EPA claimed that iron and steel plants emit only "trace amounts of other organic HAP (such as polycyclic organic matter, benzene, and carbon disulfide)." Moreover, the EPA claimed that these "trace" emissions come entirely from oil used in the sintering process, and its only limit on them is to "establish limits on the amount of organic HAP precursor material (specifically oil and grease) that may be in the sinter feed . . ." The commenter stated because the EPA does not claim that COS emissions either come from organic HAP precursor material in sinter feed or can be reduced by limits on such material, its current standards do not limit emissions of COS. In addition, the extremely dangerous neurotoxicant HCN appears not to be currently restricted at all.

The commenter stated it is well-established that, under CAA section 112(d) of the CAA, the EPA's emission standards for a source category must include limits for each HAP that a source category emits. As the Court held in *National Lime Ass'n,* 233 F.3d 625, 634 (D.C. Cir. 2000), the Agency has a "clear statutory obligation to set emission standards for each listed HAP." In subsequent decisions, the Court has repeatedly confirmed that the EPA has this obligation, that it is unambiguous, and that the EPA's failure or refusal to set limits for each listed HAP that a category emits is flatly unlawful. See, *e.g., Sierra Club* v. *EPA,* 479 F.3d 875, 883 (D.C. Cir. 2007). Despite the plain language of the CAA and the Court precedent, the existing standards do not currently contain any limit at all on certain HAP.

The commenter stated that CAA section 112(d)(6) requires the EPA to review and revise "as necessary" the emission standards for integrated iron and steel facilities. This includes ensuring standards apply to all emitted HAPs and satisfying all currently applicable requirements. As part of its review rulemaking under CAA section 112(d)(6) of existing standards to determine whether it is "necessary" to revise the standards, EPA must ensure that standards for Iron & Steel facilities meet the requirements of CAA section 112(d), consistent with its responsibility under the CAA and applicable case law.

The commenter stated while the EPA has been ignoring its statutory obligations to control these sources' toxic pollution, people in communities near these sources suffer as a result of their exposure to uncontrolled HAP emissions. The commenter stated as communities currently have no protection at all from these emitted HAP, it is both unlawful and arbitrary for the EPA not to set a limit in this rulemaking. If it fails to do so, it will fail to complete the review and revision rulemaking as CAA section 122(d)(6) requires, will violate the Court's Order in *California Communities Against Toxics* v. *Pruitt,* 241 F. Supp. 3d 199 (D.D.C. 2017), and will also issue a final rule that is unlawful and inadequate.

Response: Section 112(d)(6) of the CAA requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. We do not agree with the commenter's assertion that the EPA must establish new standards for unregulated emission points or pollutants as part of a technology review of the existing standards.[12] The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary taking into account developments in practices, processes, and control technologies. Nothing in CAA section 112(d)(6) directs the Agency, as part of or in conjunction with the mandatory 8-year technology review, to develop new emission standards to address HAP or emission points for which standards were not previously promulgated. As shown by the statutory text and the structure of CAA section 112, CAA section 112(d)(6) does not impose upon the Agency any obligation to promulgate emission standards for previously unregulated emissions. Establishing emissions standards for unregulated emission points or pollutants involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

Though the EPA has discretion to develop standards under CAA section 112(d)(2) through (4) and CAA section 112(h) for previously unregulated pollutants at the same time as the Agency completes the CAA section 112(d)(6) review, any such action is not part of the CAA section 112(d)(6) review, and there is no obligation to undertake such actions at the same time as the CAA section 112(d)(6) review.[12] In the case of mercury, as described in sections III.C and IV.C of this preamble, the EPA has decided to promulgate new standards pursuant to CAA section 112(d)(2) and (3) to address an outstanding petition for reconsideration. However, the EPA is not establishing new standards for the other HAP described above (*i.e.,* HCl, HCN, and COS) as part of this rulemaking, partly due to the fact that the EPA has insufficient time to gather the information to complete the necessary analyses and review in order to develop such additional standards before the court-ordered deadline of May 5, 2020. Nevertheless, the Agency may address these additional HAP in a future action.

4. What is the rationale for our final approach for the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, we analyzed their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also considered the emission reductions associated with applying each development. This analysis informed our decision of whether it is "necessary" to revise the emissions standards.

For the reasons explained in the proposed rule (84 FR 42704) and in this final rule preamble (section IV.B), we determined that there are no developments in practices, processes, or control technologies that warrant revisions to the standards. We evaluated all of the comments on the EPA's technology review and we determined no changes to the review are needed. Consequently, the EPA is not promulgating any new or revised standards in this action for the Integrated Iron and Steel NESHAP under CAA section 112 (d)(6) of the CAA.[12] More information concerning our technology review is in the memorandum titled *Technology Review for the Integrated Iron and Steel*

[12] On April 21, 2020, shortly before this rule was signed, the U.S. Court of Appeals for the D.C. Circuit issued an opinion in *LEAN* v. *EPA* (No. 17–1257) in which the court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

NESHAP (Docket ID Item No. EPA–HQ–OAR–2002–0083–0964).

C. Mercury Emission Limits

1. What did we propose for mercury emissions for the Integrated Iron and Steel Manufacturing Facilities source category?

On August 16, 2019, the EPA proposed emissions standards for mercury for the Integrated Iron and Steel Manufacturing Facilities source category pursuant to CAA section 112(d)(3) in part to address a petition for reconsideration received by the EPA in 2004 from the Sierra Club. The proposed MACT floor limit was 0.00026 lbs of mercury per ton of scrap processed as an input-based limit for all existing BOPFs and related units at existing integrated iron and steel facilities. We proposed two options to demonstrate compliance with the input-based limit of 0.00026 lbs of mercury per ton of scrap processed for existing facilities. These options were: (1) Conduct an annual performance test at all BOPF-related units and convert the sum of the results to input-based units (*i.e.,* lbs of mercury per ton of scrap input) and document the results in a test report that can be submitted electronically to the delegated authority with the results (see section IV.E below); or (2) certify that the facility obtains all of their scrap from NVMSRP participants (or similar program as approved by the delegated authority), or establish that their scrap is not likely to contain mercury switches. We proposed that existing sources would be required to comply with these requirements within 1 year of promulgation of the final rule. We also proposed that for facilities demonstrating compliance with the mercury limits through performance testing, subsequent performance testing would be required annually. In addition, we proposed that facilities demonstrating compliance through the scrap selection options, would be required to report their status with the appropriate required information in their semiannual compliance reports beginning 1 year after promulgation of final rule.

For new sources, we proposed a MACT limit of 0.00008 lbs of mercury per ton of scrap processed as an input-based limit for any new BOPF and related units, and new integrated iron and steel facility, pursuant to the CAA section 112(d)(3) requirements for new sources that the standard for new sources shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source. With regard to compliance, the EPA proposed that new sources would have the same options to demonstrate compliance as the existing sources. A new BOPF and new integrated iron and steel facility was defined, with respect to the mercury standard, to be any BOPF or facility constructed or reconstructed on or after August 16, 2019.

2. How did the mercury emissions standards change for the Integrated Iron and Steel Manufacturing Facilities source category?

For the final rule, in response to comments, we changed the mercury testing frequency after the initial performance test to twice per permit cycle, *i.e.,* every 2.5 years in a 5-year title V permit cycle or every 2.5 years for facilities without a permit (where the initial performance test is performed within 1 year from the effective date of the rule); changed definitions for motor vehicle scrap; changed 40 CFR 63.7825 Equation 1 to reflect the correct calculation for mass emissions; and changed minor aspects of provisions that allow sources to demonstrate compliance through participation in the NVMSRP and other provisions related to compliance with the mercury limits. These changes are described in sections III.C, IV.C.4, and IV.C.5 of this preamble.

3. What key comments did we receive on the mercury emissions standards, and what are our responses?

This section provides a summary of key comments and responses regarding the mercury standard. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–0083).

Comment: One commenter stated the EPA has appropriately proposed a measure to reduce mercury emissions, which the emission standards currently do not control, by (proposing to) set standards for the first time pursuant to CAA sections 112(d)(2) and (3). (84 FR 42730). The commenter urged the EPA to finalize this measure, but also asserted that it does not satisfy CAA section 112(d)(6). The commenter added, as the EPA acknowledges, the EPA also has a pending petition for reconsideration asking the EPA to set mercury limits. (*Id.* at 42,731). The EPA granted the petition on the issue of the mercury limits. The commenter opined that the EPA should not have waited 15 years to propose measures to reduce iron and steel plants' mercury emissions, and its current proposal falls short of the CAA's requirements. (*Id.*).

The commenter stated the EPA's proposed practices for the removal of mercury switches from the scrap metal used by iron and steel plants are not numeric emission limits. At best, the commenter stated, they constitute a work practice requirement the EPA has not even claimed, let alone shown, as it must under CAA section 112(h), that the statutory preconditions for setting work practice requirements instead of numeric emission limits have been satisfied. For this reason alone, the commenter asserted that the EPA's proposed mercury requirements are unlawful and arbitrary.

The commenter asserted that the limits fail to satisfy the stringency requirements under CAA sections 112(d)(2) and (3). Specifically, the commenter argues that the EPA has not demonstrated with substantial evidence, as it must, that these requirements reflect the mercury emissions levels actually achieved by the plants that are best-performing with respect to mercury and contravene CAA section 112(d)(3). Further, the commenter stated that the EPA has neither claimed nor demonstrated that its mercury requirements require the "maximum" degree of reduction in mercury emissions that is "achievable" through the full range of reduction measures enumerated in CAA section 112(d)(2) and, therefore, this violates CAA section 112(d)(2).

The commenter affirmed that the mercury switch requirements the EPA has proposed should be included in the Agency's final mercury emission limits. The commenter acknowledged that the EPA has the authority to set limits for mercury that reflect, among other things, the application of operational measures, such as the proposed mercury switch requirements. However, they questioned whether such measures are sufficient and asserted that, if not, the EPA must set numeric limits for mercury that satisfy the stringency requirements in CAA sections 112(d)(2) and (3).

The commenter stated that the proposed limits for mercury are unlawfully and arbitrarily weak, because they simply codify what the majority of sources are already doing—instead of ensuring the "maximum achievable degree of emission reduction." (42 U.S.C. 7412(d)(2) and (3); see 84 FR 42730–32, August 16, 2019). The commenter stated that the EPA does not claim that this satisfies CAA sections 112(d)(2) and (3), or determine that numerical emission limits are not feasible.

Response: We acknowledge the support for our proposal to set mercury standards. This is the first time the EPA is promulgating a mercury emissions standard for this source category. Therefore, CAA section 112(d)(6) does not apply. Section 112(d)(6) of the CAA only applies to existing standards and requires that the EPA review existing standards within 8 years, and revise them as necessary, taking into account developments in practices, processes, or technologies.[12]

Pursuant to CAA sections 112(d)(2) and (3), and based on data from all facilities, we proposed MACT floor limits for new and existing sources in terms of lbs of mercury per ton of scrap processed as an input-based limit for all BOPFs and related units (HMTDS and ladles) at integrated iron and steel facilities. These limits, which are in units of mass of mercury emissions from all BOPFs and related units at each facility (hereafter called the "BOPF Group" [13]) per mass of scrap processed by each facility in their BOPFs, were derived using performance test data and data on amount of metal scrap processed obtained through an ICR sent to the industry in 2011, and are based in part on the assumption that the mass of mercury emitted from all BOPFs and related units is equivalent to the mass of mercury in the scrap input. Mercury is neither created nor destroyed in the BOPF and, based on our understanding of the steelmaking process, the primary source of mercury emissions is mercury contained in the scrap feedstock. Thus, the EPA determined it was reasonable to set a standard that limits the amount of mercury that may be emitted per ton of scrap processed.

Because we collected test data from BOPF Groups at all facilities in the industry, we necessarily collected test data from the best performing sources. We then used the test data to develop mercury-to-scrap input ratios for the facilities' BOPF Groups and used the best performing five facilities out of all 11 integrated iron and steel facilities in the source category to develop the data set to derive the input-based MACT floor for existing sources for mercury, pursuant to CAA section 112(d)(3). For new sources, we established a standard no less stringent than the emission control achieved in practice by the best controlled source, as determined by the Administrator, pursuant to CAA section 112(d)(3).

Once we established the MACT floor data set, we then determined an upper prediction limit (UPL) [14] to develop the mercury MACT standard that incorporates the potential variability in future measurements. The EPA's MACT analyses use the UPL approach to identify the average emission limitation achieved by the best performing sources to determine the MACT level of performance, or MACT emission limit, as described in the EPA memorandum titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958). The EPA uses this approach because it incorporates the average performance of the best performing sources as well as the variability of the performance during testing conditions. The UPL estimates what the upper bound of future values will be based upon present or past background data. The UPL approach encompasses all the data point-to-data point variability in the collected data, as derived from the dataset to which it is applied. We then took the mercury mass-to-scrap input ratio from the lowest-emitting facility in regard to mercury and used this value to establish the new source standard, after applying the same UPL procedure. Details of this procedure also are described in the technical memorandum cited above.

After calculating the MACT floor, the EPA evaluated and considered a beyond-the-floor option pursuant to CAA section 112(d)(2) based on ACI. However, for the reasons explained in the proposal preamble, including the relatively high capital and annualized cost of ACI with baghouses, and poor cost effectiveness, the EPA did not propose a beyond-the-floor option and instead proposed the MACT floor emission limits for new and existing sources as described above in this preamble. Additional details of the development of the proposed mercury emission limits and beyond-the-floor analyses are available in the proposed rule preamble and technical document titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958).

With regard to compliance with the proposed mercury emission limits, we proposed that facilities would have two options to demonstrate compliance with the proposed input-based MACT emission limit: (1) Conduct a performance test annually at all BOPF-related units and convert the sum of the results to input-based units (*i.e.,* lbs of mercury per ton of scrap input) and document the results in a test report that can be submitted electronically to the delegated authority with the results; or (2) certify that the facility obtains all of their scrap from NVMSRP participants (or similar program as approved by the delegated authority), or establish that the facility's scrap is not likely to contain mercury switches.

In the proposal preamble (84 FR 42704), we explained that although we did not know exactly what type of scrap was used when the integrated iron and steel facilities performed the ICR testing for mercury, we assumed the scrap was either NVMSRP scrap or scrap with higher amounts of mercury per ton of scrap than NVMSRP scrap. In response to the proposal, industry (AISI and one facility, U.S. Steel) submitted comments [15] stating that the performance tests conducted to establish the MACT floor limits and, thus, the MACT for mercury in the proposal were based on facilities participating in the NVMSRP. We expect NVMSRP scrap in the future will contain similar levels of mercury or, more likely, less mercury than the scrap used to develop the MACT floor limits because the amount of mercury in scrap is declining overall due to the ban on the use of mercury in switches in U.S. automobiles after 2002, the expected continual retirement of older vehicles, and success of the NVMSRP. Based on the EPA's understanding of the NVMSRP and the commitments made by the parties in the memoranda of understanding, the NVMSRP scrap constitutes some of the cleanest, if not the cleanest, scrap available in terms of mercury content. Therefore, if a facility chooses to comply with the mercury emission limit by certifying that all their scrap is from NVMSRP participants (or a similarly-approved program) or establishes that their scrap does not contain mercury switches, it is also reasonable to conclude that the amount of mercury left in the scrap due to the removal of mercury switches by the

[13] Basic oxygen process furnace group is defined to be the collection of BOPF shop steelmaking operating units including the BOPF primary units (BOPF emissions from oxygen blow for iron refining); BOPF secondary units (secondary fugitive emissions in the shop from iron charging, steel tapping, and auxiliary processes not elsewhere controlled); ladle metallurgy units; and HMTDS and slag skimming units that are operating at the time of each mercury test sequence.

[14] Westlin, P., and R. Merrill. *Data and procedure for handling below detection level data in analyzing various pollutant emissions databases for MACT and RTR emissions limits.* U.S. EPA, Research Triangle Park, North Carolina. December 13, 2011 (revised April 5, 2012) (Docket ID Item No. EPA–HQ–OAR–2002–0083–0857).

[15] "*Comments of the American Iron and Steel Institute and United States Steel Corporation on Proposed National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Residual Risk and Technology Review 84 FR 42,704 (Aug. 16, 2019) and Notice of Comment Period Reopening 84 FR 53,662 (Oct. 8, 2019).*" Docket ID No. EPA–HQ–OAR–2002–0083. Submitted November 7, 2019.

NVMSRP achieves at least the same level of mercury reduction or likely better reduction compared to the numeric MACT floor limits.

By finalizing this emissions standard for mercury and two options to demonstrate compliance, the EPA has fulfilled its legal obligations under CAA sections 112 (d)(2) and (d)(3).

Comment: One commenter supported the EPA's proposal to continue to rely on the NVMSRP as an effective and efficient means of reducing mercury emissions in the steel industry. The commenter stated mercury is not an ingredient in steel, nor is it intentionally added in the steelmaking process; however, mercury is a contaminant sometimes present in scrap metal feedstock. The commenter acknowledges that the EPA correctly stated in the proposal that the primary source of mercury contamination in scrap metal is mercury-containing convenience switches that were used in automobiles until their use was phased out in model year 2002.

The commenter stated the NVMSRP has been a component of the NESHAP for Area Source Electric Arc Furnaces (EAF) Steelmaking Facilities in 40 CFR part 63, subpart YYYYY ("subpart YYYYY") for over a decade. As evidenced by the EPA's own data, the commenter noted that the program has been highly effective in removing mercury from scrap feedstock and reducing mercury emissions from EAF mills. The commenter stated as EAF steel production uses a feedstock of nearly 100-percent steel scrap, Steel Manufacturers Association and its members have gone to great lengths to prevent mercury switches and other sources of mercury contamination from entering the scrap metal recycling stream. Foremost among those efforts, the commenter stated, is the development of the NVMSRP in 2006. Since that time, the commenter noted that the NVMSRP and its participants have removed and safely diverted from the scrap supply and environment over seven million mercury convenience light switches containing nearly 7.8 tons of mercury. By removing these switches from scrap feedstock, the commenter stated, the steel industry prevented that mercury from being charged into its furnaces and released into the atmosphere.

The commenter agreed with the EPA that the amount of mercury emitted from steel manufacturers using scrap metal as feedstock has declined significantly due to the elimination of mercury-containing switches in cars in 2002 and the steel industry's efforts through the NVMSRP to ensure that those remaining mercury switches are not charged into steelmaking furnaces. Critically, the commenter stated, the removal of mercury from convenience switches in cars is only one part—albeit, an important part—of a larger trend toward removing mercury from products. The commenter stated that all available data show the downward trend in mercury emissions is continuing and will continue until there are so few remaining pre-2003 vehicles reaching the end of their useful lives that mercury emissions will cease to be an issue for the steel manufacturing industry.

The commenter stated that the facilities in the Integrated Iron and Steel Manufacturing Facilities source category that use automotive shredded scrap inputs obtain automotive shredded scrap solely from suppliers participating in the NVMSRP.[15] Furthermore, the commenter stated, the performance tests conducted to establish the MACT floor limits and, thus, the MACT limits for mercury in this rule were based on these very facilities participating in the program. The commenter stated the NVMSRP seeks to ensure that mercury switches are removed from scrap used in integrated iron and steel and other industries' production processes; this approach allows for responsible recycling of vehicles while minimizing the likelihood of mercury emissions from companies using this scrap to make new products. Based on this, the commenter asserted the EPA has appropriately proposed to account for the NVMSRP.

Response: We agree with the commenter that mercury is not intentionally added to the steelmaking process, that the NVMSRP works to remove mercury from the scrap supply, and that the level of mercury in steel scrap should continue to decline in the future because, based on available information and our analyses, the overwhelming majority of the mercury originates from mercury-containing convenience switches that were used in automobiles until their use was banned in the U.S. after model year 2002.

Comment: One commenter stated that because mercury emissions from scrap consuming facilities are caused by contamination in the scrap feedstock, mercury emissions are necessarily random and episodic. The commenter stated the intermittence of these emissions—and the widespread reduction in sources of mercury contamination—strongly weigh against the imposition of specific numerical limits. The commenter recognized that the EPA believes the Agency is legally compelled to promulgate numerical mercury limits, and the commenter takes no position on whether the Agency is compelled to do so in this rulemaking. The commenter viewed these limits as inappropriate given the nature of mercury emissions in scrap-consuming facilities. The commenter asserted the NVMSRP remains a highly protective and effective surrogate for numerical limits and recommended that the EPA continue to rely on it as such.

Response: As explained above, the EPA has decided to promulgate a mercury emission limit for the BOPF and related processes pursuant to section 112(d) of the CAA in part, to address a 2004 petition for reconsideration. The steel-making units, although by definition a batch process, operate on a cycle where one batch starts as soon as the previous one ends so that the furnace remains operating almost all the time (except for occasional maintenance or repair activities) to prevent cooling and the need to reheat. Three test runs are required for a performance test. The steelmaking process cycle, although a batch process, is sufficiently long enough to allow at least one test run in each cycle. Because the scrap content and amount of mercury in each batch may change from batch to batch, using an average of three runs to develop the standard that the facilities will use to determine compliance (or for any other testing purpose) contributes to the accuracy of the data and, therefore, is to the benefit of both steel facilities as well as the EPA. The final three-run test average, then, is considered representative of typical operations and not just one "batch." Therefore, the EPA determined it was feasible and reasonable to develop a numerical emission limit based on the data we had. However, as explained above, the EPA is including two options to demonstrate compliance: (1) Conduct performance testing; or (2) certify scrap is obtained from suppliers who participate in the NVMSRP or similar program, or is free of mercury switches. With this final rule, the EPA has fulfilled its legal obligations under CAA sections 112(d)(2) and (3) to set emission standards for mercury.

Comment: The commenter stated that the use of a 99-percent UPL to develop the MACT floor for mercury is appropriate and consistent with the EPA's approach in other rulemakings. The commenter stated the ability of the UPL, however, to properly account for variability here is in question, given that 80 percent of the sampling results included at least one mass fraction below the detection limit (non-detect), and 8 percent of total runs included all

non-detect values. In sum, the commenter stated only 12 percent of runs included all detected results, severely limiting the above-detection-limit dataset on which the UPL calculation was based.

Response: In the procedure the EPA uses to develop the MACT standards, the calculated UPL is compared to three times the HAP and method-specific "representative detection level" (RDL) developed by the EPA, and the higher value of the two (UPL v. 3xRDL) is used as the MACT standard. This step ensures that the final MACT floor values will be a measurable above-detection-limit value. (See Westlin and Merrill, 2011[14]). When multiplying RDL by a factor of 3, the measurement imprecision is decreased to around 10 to 15 percent. Using the larger value for the MACT standard ensures that measurement variability is adequately addressed.

In regard to the number of below detection limit (BDL) values, see the procedure from the EPA memorandum titled *Determination of "Non-Detect" from EPA Method 29 (Multi-Metals) and EPA Method 23 (Dioxin/Furan) Test Data When Evaluating the Setting of MACT Floors Versus Establishing Work Practice Standards* (S. Johnson, U.S. EPA, June 5, 2014) located in the docket to this final rule. In the memorandum (page 8, item 3), there is a discussion of a procedure for data classification for mercury and nonmercury metals obtained via EPA Method 29. According to the procedure: "Where test results for any single analyte are detection level limited (DLL) or above detection limit (ADL), we assume detection (*i.e.,* ADL) for that test run data for that specific analyte." Therefore, the integrated iron and steel mercury data classified as DLL, at 80 percent, are considered ADL and consequently, the number of runs considered ADL is 92 percent, a clear majority of the data set. See summary table of the MACT floor run data below.

TABLE 4—INTEGRATED IRON AND STEEL SOURCE MERCURY MACT FLOOR RUN DATA CLASSIFICATIONS

Source	Data	Number of runs				Percentage of total runs		
		BDL	DLL	ADL	Total	BDL	DLL	ADL
BOPF Group	Before reclassification [1]	7	73	11	91	8	80	12
	After reclassification [2]	7	0	84	91	8	0	92

[1] From the memorandum titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958).

[2] As per the procedures described in the memorandum titled *Determination of "Non-Detect" from EPA Method 29 (Multi-Metals) and EPA Method 23 (Dioxin/Furan) Test Data When Evaluating the Setting of MACT Floors Versus Establishing Work Practice Standards.* S. Johnson, U.S. EPA, Research Triangle Park, North Carolina. June 5, 2014.

Comment: A commenter stated the EPA's equating of hourly mercury test results with annual mercury rates and use of annual scrap usage to determine lbs of mercury per ton of scrap value is problematic for several reasons. The commenter stated that hourly mercury tests only account for the amount of mercury in the scrap at the time of the test and are not normalized for fluctuations in the short-term scrap usage rates, short-term scrap/iron ratios, or scrap and lime mercury concentration. The commenter asserted the differences in the mercury emissions rates between facilities and their respective operations are not appropriately accounted for in the EPA's calculations, based on the amount of scrap and mercury concentration in the scrap during the time of the test, which could add variability not properly factored into the EPA's calculations. The commenter stated it is inappropriate to assume that the type of scrap, scrap usage, and scrap-to-molten iron ratio at the time of the test were indicative of the long-term averages. Thus, the commenter stated, this critical element of the proposal's analysis is unjustified and cannot support standard-setting. In addition, the commenter stated that although the proposed standards in 40 CFR part 63, subpart FFFFF, Table 1 are intended to be set at the CAA section 112(d) floor level, they fail to account for the degree of variability present in steelmaking inputs and, thus, go beyond the floor without proper justification.

The commenter also stated the EPA's annualized approach (lbs/yr mercury ÷ ton scrap/yr) resulted in the skewness and kurtosis data analyses being represented as a lognormal distribution, whereas the output-based steel production approach (that accounts for short-term production rates) is skewed non-normal distribution, according to the prescribed MACT floor methodology. The commenter stated that since the mercury emissions data sets are the same between the two input- and output-based approaches, one could properly conclude that the annualized approach is not adequately accounting for the short-term production rate variability and, thus, it may be comparatively less representative of actual variability in mercury emissions during operations.

The commenter stated the EPA's analysis appears not to have accounted properly for the scrap mercury content variability and, thus, does not adequately apply the UPL concept of ensuring that sources controlled to the level of the best performing five sources would achieve the limit 99 percent of the time. The commenter stated that, as proposed, the UPL calculation does account for some degree of variability. However, the commenter stated the EPA needs to revisit the associated MACT floor calculations to better represent the variability among individual loads of scrap in terms of the variability in mercury content and the associated long-term emission performance in assessing the emission limit that is achieved by the top five performing sources or UPL.

The commenter asserted that the EPA should calculate the variability using all viable mercury emissions stack testing results in the UPL analysis and then apply that variability factor to the five best performing sources. Particularly when there is a small dataset for which the raw material content is indicative of emissions, the commenter asserted that the EPA needs to determine the variability that can reasonably be expected from the top performers. Given that the facilities in question were all accepting scrap from suppliers in the NVMSRP, the commenter said the variability in scrap obtained from such suppliers is reflected in all of the test results, not just the top five performers.

The commenter noted that in the NESHAP for the EAF source, which used similar scrap inputs as the Integrated Iron and Steel Manufacturing Facilities source category but at much greater volumes and proportions, the EPA recognized that an additional scrap variability factor would be needed to account for variation in mercury emissions if an emission limit was to be developed. Therefore, the commenter

stated, although the EPA did not ultimately establish a numeric mercury emission limit, working documents from development of the EAF rule show a ''scrap (mercury) variability'' factor was applied in an attempt to develop a mercury limit. The commenter stated that the EPA cited the variability of mercury in scrap metal as the reason why performance test averages varied by over 2 orders of magnitude at a single EAF plant. (72 FR 53817). The commenter stated that if the EPA decides to proceed, it needs to seek additional data regarding scrap mercury content and variability similar to the approach the EPA considered with the EAF NESHAP so that the UPL can account for that variability using standard and accepted methods.

The commenter stated rather than the approach the EPA took in the proposal of calculating the mercury per ton of scrap values by using a source's annual total scrap input tonnage, the EPA should refine its approach by comparing the scrap tonnage used in the individual heats when the ICR stack test results were obtained. Moreover, the commenter stated the EPA should look not only at the total scrap used for those heats, but also to the extent possible based on available records, the proportion of automotive shredded scrap used in those heats. The commenter stated this approach would be far more accurate than the one reflected in the proposal, which fails to account for any relation between the stack test data and the scrap used at the time those results were obtained. The commenter stated that failure to take this critical factor into account renders the standard not rationally related to the performance of the top performing sources and, thus, arbitrary and capricious.

Response: Because scrap varied from unit to unit and facility to facility, the variability in the scrap was already accounted for in the data used to develop the MACT floor. We used data for the mercury content of scrap from all units in the BOPF Group [13] at the top five best performing facilities from five locations in three states that stretched from Chicago, Illinois, to Pittsburgh, Pennsylvania. Over 100 runs of data were used to develop the facility lbs mercury/ton steel scrap values used to calculate the UPL. The variability in the scrap in the over 100 runs was almost certainly captured by the UPL calculation for the MACT floor.

In addition, the procedure the EPA uses to develop the MACT standards allows for variability in future emission measurements. To determine the MACT standard, an initially calculated UPL is compared to 3 times the HAP- and method-specific representative detection level (RDL) developed by the EPA, and the higher value is used as the MACT standard. This step ensures that the final MACT floor values will be measurable ADL values. (See Westlin and Merrill, 2011.[14])

As explained at the following website, a lognormal distribution is a type of skewed distribution (see *https://www.statisticshowto.datasciencecentral.com/lognormal-distribution/; https://www.investopedia.com/terms/s/skewness.asp*). A lognormal distribution leans toward the right because all values are above zero, by definition of a log. ''Skew'' refers to distortion or asymmetry as compared to a symmetrical bell curve, or normal distribution, in a set of data. If the curve leans towards the left or to the right, it is said to be skewed. Skewness can be quantified as a representation of the extent to which a given distribution varies from a normal distribution. A normal distribution has a skew of zero, while a lognormal distribution has some degree of right-skew. Both the input- and output-based approaches to calculate a mercury MACT limit are skewed because they are both lognormally distributed.

With regard to the mercury MACT calculations, when data from the same facilities were compared, the variability of the lbs mercury/ton scrap input dataset had more variability than the lbs mercury/ton steel output variability. Consequently, more variability is incorporated into the UPL calculation for the input-based standard than for an output-based.

Not every facility reported run-by-run scrap tonnage values to the EPA in the ICR, whereas every facility reported an annual scrap tonnage value. In addition, almost all facilities did not report percent automotive scrap use during testing or annually. Most facilities left this ICR answer field blank, said it was confidential, or was unknown. Therefore, the annual approach was the only option available to the EPA based on the data provided to the EPA by the integrated iron and steel facilities.

Comment: One commenter stated although the EPA's MACT floor calculation includes a mass concentration value for mercury content in lime, as is discussed in an attached engineering report providing independent evaluation by Barr Engineering Co. commissioned by AISI/U.S. Steel, the MACT floor calculation fails to account for potential mercury variability in lime inputs as the EPA has appropriately done in other contexts. The commenter stated this approach fails to account for variability in a manner that is appropriate for the source category.

Response: We agree with the commenter's Barr evaluation that some mercury emissions can be attributed to the other inputs to the BOPF, which include lime. However, the stack performance test data the EPA collected through the 2011 ICR would account for the lime portion of the mercury emissions and include some of the variability in emissions as well. Variability is accounted for both by the number and length of the source test runs and the fact that multiple sources were tested. Our MACT floor calculation relied on this data and, thus, accounted for variability in lime inputs. At this time, we do not have additional data regarding variability in lime inputs. The Barr evaluation cites the Portland Cement UPL calculation as an example of the EPA accounting for mercury variability in lime inputs in the UPL MACT floor calculation. The commenter pointed to the ''Intra-quarry Variability Estimate for Mercury'' memorandum for the Portland Cement NESHAP (40 CFR part 63, subpart LLL) memorandum (Docket ID item No. EPA–HQ–OAR–2002–0051–3323), and stated that, in that rulemaking, the EPA had 30 daily mercury concentrations, parts per million (ppm) in limestone by quarry values for three kilns that were in the MACT floor pool or used the same quarry as MACT floor pool kilns. The commenter also stated that those values were used to calculate temporal correlation between the quarries and calculate intra-quarry variability. That information, the commenter asserts, was then incorporated into the Portland Cement UPL MACT floor calculation. The commenter is correct that the EPA does not have direct data regarding mercury content of the lime used at the integrated iron and steel industry. For the integrated iron and steel ICR, facilities had to report the amount of lime used annually, but not the mercury content of that lime.

As shown in the memorandum titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958), Table 4, the mercury from lime was estimated to comprise less than 15 percent of the total mercury inputs to the BOPF, on average. The value for mercury content of lime, at 0.03035 ppm, was developed from the average of data from two reference sources. One reference source was the information (Limestone Mercury Concentrations (ppb) with Revised Data from Buzzi. July 21, 2009) gathered for

the Portland Cement NESHAP (40 CFR part 63, subpart LLL; Docket ID Item No. EPA–HQ–OAR–2002–0051–3400) and the other source was from a Portland Cement Association research report (Hills and Stevenson, 2006; Docket ID Item No. EPA–HQ–OAR–2002–0083–0872).

The EPA estimated that mercury in the scrap accounts for over 85 percent of the total mercury inputs to the BOPF and constitutes the vast majority of mercury content; therefore, regulating the scrap input is sufficiently correlated to the numeric emission limitation for mercury to enable setting a standard for mercury from scrap. And, as noted above, as a result of the robustness of the mercury emission data used and the calculations performed to develop the MACT standard (UPL, etc.), we have accounted for the variability of mercury in both the scrap and lime. The mercury emission limitations are based on the best data available to the Agency and satisfies our obligation under CAA section 112(d) to establish a standard for mercury emissions from the BOPF. For information on the data used to develop the MACT floor, see the memorandum titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958).

Comment: One commenter stated that with a small source category, and, thus, small number of sources setting the floor, a proper UPL analysis is essential to a technically defensible standard that is consistent with the statute. The commenter stated the EPA's technical memorandum regarding its mercury floor calculations acknowledges, however, that its dataset including just five data points is small and, in fact, below the minimum of seven data points that the EPA considers the threshold for a "limited dataset." The commenter stated that this limited dataset is the result of calculating a mercury emissions per ton of steel scrap value for only the top five sources in the source category and then running the UPL calculation based only on those five sources.

Response: The BOPF Group existing source MACT floor pool dataset (five data points) is based on fewer than seven data points. Therefore, the EPA used the protocol for developing MACT floors for small datasets. (See technical memorandum titled *Mercury Emissions, Controls, and Costs at Integrated Iron and Steel Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0958)). For limited datasets, the EPA can further evaluate each individual dataset in order to ensure that the uncertainty associated with a limited dataset does not cause the calculated emission limit to be so high that it does not reflect the average performance of the units upon which the limit is based after accounting for variability in the emissions of those units. The EPA evaluated this specific integrated iron and steel mercury dataset to determine whether it is appropriate to make any modifications to the approach used to calculate MACT floors for each of these datasets. The EPA ensured that the selected data distribution best represents each dataset; ensured that the correct equation for the distribution was then applied to the data; and compared individual components of each limited dataset to determine if the standards based on limited datasets reasonably represent the performance of the units included in the dataset. Based on an evaluation of the limited datasets, the EPA determined that no changes to the standard floor calculation procedure were warranted.

For new sources, in the EPA's experience from the past, limited datasets warranted close scrutiny because sources with the lowest average emissions, but with a relatively high variance, could be identified mistakenly as the best performing source. In the mercury emission limit for new integrated iron and steel sources, the best performing source identified had 28 data points in the MACT floor pool, so it is not a limited dataset, nor does it have relatively high variance. Therefore, we conclude that further inspection of the existing emissions datasets is not warranted.

Comment: One commenter stated given the need to finalize this RTR in March 2020 and given that any data collection and analysis needed to generate a sound mercury emission limit would take at least a year, the EPA should not finalize the mercury emission limit at this time but instead should withdraw it and defer action to a later date to allow the EPA to address the flaws in the proposed standard. The commenter stated the proposed mercury emission limit should be withdrawn and, if the Agency ultimately determines a standard must be set, the EPA should issue a new, separate proposal because the changes necessary to both the dataset and the floor setting methodologies are sufficiently great that interested persons will need an opportunity to comment on the EPA's efforts to address them. In short, the commenter stated any mercury gap-filling should proceed on an independent track from the RTR, and it would be arbitrary and capricious for the EPA to finalize a mercury emission limit in reliance on the limited data it has and particularly using the flawed methodologies reflected in the proposal.

The commenter stated the EPA can and should determine that it currently lacks adequate data to establish a mercury emission limit, in light of the limited timeframe allowed under the judicial deadline to complete this rulemaking. The commenter stated such a decision would be afforded an "extreme degree of deference" by the Court on review. The commenter stated the EPA's obligation under the court order is to complete the RTR. The commenter stated filling a perceived gap in the original standard is not mandated under CAA section 112 generally and certainly is not compelled to be part of the RTR. Accordingly, the commenter stated the EPA need not finalize the mercury proposal by the March 2020 RTR deadline. The commenter stated if the EPA promulgates now, the standard will necessarily lack adequate data and a record to support it and, thus, would not only be ill-advised, but also arbitrary and capricious.

Response: The EPA opted to promulgate these mercury emission limits at the same time we conducted the RTR in part to address an outstanding petition for reconsideration asking the Agency to set a mercury emissions standard. The data used for the mercury emission limit were stack test data obtained using typical mercury testing methodology and the procedures we followed to develop the MACT limits were typical MACT standard development procedures. The mercury data are not flawed, as explained elsewhere in this preamble in responses to commenters' specific allegations. All alleged flaws have been addressed above in responses to comments received, and we have shown that the allegations were unfounded and/or lacking scientific basis and that the EPA data and data handling procedures were performed correctly to develop the numeric emission limitation. Thus, we did not make any changes to the mercury emission limit in response to comments received. The mercury emission limitation promulgated in this rule is based on the best data available to the Agency and satisfies our obligation under CAA section 112(d) to establish a standard for mercury emissions from the BOPF.

Comment: One commenter stated if the EPA proceeds with a mercury emission limit, the proposal to allow facilities to satisfy the mercury requirements by certifying that their scrap is "not likely to contain motor vehicle scrap" in the proposed rule, *e.g.*, proposed 40 CFR 63.7791(b) (final 40 CFR 63.7791(d)), is reasonable but needs

to be revised to better match the requirements in 40 CFR 63.10685(b) in 40 CFR part 63, subpart YYYYY. For example, the commenter stated the EPA needs to clarify that the option applies to "scrap not likely to contain automotive *shredded* scrap," rather than all "motor vehicle scrap" as it is currently proposed; regulatory language changes should be made to reflect this clarification. This is because mercury switches, the commenter stated, the driver of mercury emissions, are not present in all motor vehicle scrap; rather, mercury switches are typically only present in *shredded* automotive scrap. The commenter stated facilities should, thus, be able to comply by certifying that scrap inputs are not likely to contain automotive shredded scrap. The commenter recommended the EPA modify proposed 40 CFR 63.7791(a)(1), 63.7791(a)(2), 63.7791(b)(1), 63.7791(b)(2), 63.7791(c), 63.7840(f)(1), and 63.7852 (final 40 CFR 63.7791(c)(1), 63.7791(c)(2), 63.7791(d)(1) through (d)(3), 63.7791(e), 63.7840(f)(1), and 63.7852, respectively) definitions for motor vehicle scrap, scrap provider, and steel scrap accordingly.

Response: The EPA acknowledges the clarification requested by the commenter and has incorporated these suggestions as much as appropriate into the final rule. We agree with the commenter that given today's automobile fleet, where motor vehicles from 2003 production and earlier still contain mercury switches, the scrap containing mercury switches is typically shredded automotive scrap. We have revised the proposed option that would have allowed facilities to comply by certifying that the facility's scrap is "not likely to contain motor vehicle scrap." As finalized, this option has been changed to allow facilities to comply by certifying that the facility's scrap "does not contain mercury switches." This approach allows facilities to establish the absence of mercury switches in their scrap, as appropriate for their facility, *i.e.,* their scrap is recovered for its specialty alloy content, their scrap does not contain motor vehicle scrap, or their scrap does not contain shredded motor vehicle scrap.

Comment: One commenter stated facilities that use small amounts of automotive shredded scrap relative to other inputs per ton of steel produced, even from non-NVMSRP suppliers, would not be expected to emit mercury at levels exceeding the emission limitations reflected in the proposed rule. As the proposal acknowledges, the commenter stated that the mercury content associated with mercury switches in older, end-of-life vehicles is the basis for the mercury emission limit. The commenter stated mercury switches are not present in all scrap, and not even in all automotive scrap; rather, mercury switches are only potentially present in shredded automotive scrap. Because of this, the commenter stated, facilities using small amounts of automotive shredded scrap would not be expected to have mercury emissions in excess of the proposed standard. Thus, the commenter stated, sources using minimal amounts of automotive shredded scrap should not be burdened with the costs of testing or documenting participation in the switch recovery programs, particularly given the low risk modeled for the source category.

The commenter stated the EPA should modify the proposed 40 CFR 63.7791(b) to allow facilities to instead certify that they use only minimal amounts of automotive shredded scrap inputs, such as 10-percent automotive shredded scrap per ton of steel produced. So long as a facility does not use more automotive shredded scrap than the threshold, the commenter stated that certification should constitute its compliance demonstration; this would enable facilities that use very minimal amounts of automotive shredded scrap or that use automotive shredded scrap only occasionally based on the scrap supply market, and are, thus, unlikely to exceed the mercury emission limit, to be deemed compliant, as well.

The commenter added the EPA should acknowledge that when the NVMSRP ends this event will, in essence, establish compliance with the proposed mercury emission limit because it will signal achievement of substantial elimination of mercury switches from automotive scrap. Consistent with the compliance option for the proposed mercury requirements of allowing purchase of scrap from NVMSRP participants, the commenter stated the EPA should include in any final rule a provision that when the NVMSRP ends, sources would be deemed compliant with the mercury emission limit (because the commenter stated the EPA would have deemed that the NVMSRP is no longer needed to reduce mercury switches from automotive scrap).

The commenter stated the EPA should revise proposed 40 CFR 63.7791(c) or add a new 40 CFR 63.7791(d) to allow sources to otherwise show that their shredded motor vehicle scrap is unlikely to contain mercury. For example, the commenter stated, if the NVMSRP has ended with a finding that the mercury switches remaining in vehicles on the road are minimal, the fact that there is no need for such a program establishes the diminished presence of mercury. Or, the commenter stated, if a scrap dealer uses only recycled post-2003 vehicles, the use of this automotive scrap should not contain any appreciable mercury. In other words, the commenter stated, at some point the number of recycled vehicles containing mercury switches will diminish to the extent that mercury in automotive scrap is no longer a concern. At this point, the commenter stated, facilities should be able to rely on some provision in 40 CFR 63.7791 to conclude that their scrap is unlikely to contain mercury switches. The commenter stated such an approach is reasonable because the standard is driven by the use of automotive shredded scrap at BOPF shops and the mercury content in that scrap, and the NVMSRP is aimed at removing mercury switches from automotive shredded scrap. The commenter stated meeting the NVMSRP's program goals, which should be the rationale for ending the program, will occur when mercury switches are sufficiently removed from automotive scrap. When that has occurred, the commenter stated, it will mean that the remaining automotive scrap inputs available to integrated iron and steel facilities will in effect satisfy the NVMSRP criteria, and facilities should be considered to be in compliance with the mercury emissions standard. In that case, the commenter stated, it would not add value to require further compliance with the administrative burdens associated with complying with the standard, since the source will have been effectively eliminated.

Response: The commenter appears to be asking the EPA to create an exemption from the requirements for certain sources and to not regulate the mercury emissions from those sources. In other words, the commenter is asking the EPA to read a de minimis exemption into the requirement that the EPA regulate all HAP emitted by major sources. The court, however, has previously upheld the EPA's rejection of this argument on the grounds that the statute does not provide for de minimis exemptions where a MACT floor exists. *See Nat'l Lime Assn.* v. *EPA,* 233 F.3d 625, 640 (D.C. Cir. 2000). For this reason, the EPA is not making any changes to the proposed rule to create an exemption for de minimis mercury emissions as per this comment.

However, in the final rule, the compliance option in 40 CFR 63.7791(d) "*Use of scrap that does not contain mercury switches*" can be used by a source if the facility can establish that

their scrap does not include mercury switches. This option is available regardless of whether or not the NVMSRP is in operation. If the NVMSRP were to be discontinued, however, the fact that the program had been discontinued would not establish the mercury level, or lack thereof, in the scrap. Thus, the potential scenario of NVMSRP discontinuation could not be relied upon to demonstrate compliance with the mercury emission limit.

Comment: One commenter stated the proposed standards for the integrated iron and steel source category are very similar to the requirements for facilities in the EAF area source standards to obtain scrap from participants in the NVMSRP and therefore the EPA should reconcile this rule with the EAF rule. The commenter stated the rule language should be revised to maintain consistency with the existing EAF NVMSRP regulatory language.

As background, the commenter explained that some companies with facilities subject to the subpart FFFFF standards for integrated iron and steel sources also operate EAF facilities subject to the subpart YYYYY standards, and they purchase and manage scrap that is charged both into BOPF vessels and the EAF at a corporate level, using the same policies and management methods to obtain scrap for both source categories. Since these companies have area source EAF facilities that must comply with the mercury switch program requirements in subpart YYYYY, the commenter stated their entire scrap management system is already compliant with the motor vehicle scrap management requirements in those standards. The commenter stated the language differences between subpart YYYYY and the proposed subpart FFFFF motor vehicle scrap management requirements could cause issues in managing these companies' scrap supply chains and ensuring compliance with both regulations. The commenter stated the proposal does not explain why these differently worded requirements are being imposed on integrated iron and steel facilities, particularly given that EAF sources use a greater proportion of scrap inputs than integrated iron and steel BOPF sources and that doing so would impose burdens on facilities, including the need to modify contracts and additional administrative costs. Because of the identical supply chain for BOPF shops and EAFs, the commenter stated there should be no differentiation in the requirements. The commenter suggested revisions to the proposed language 40 CFR 63.7791(b) (final 40 CFR 63.7791(d)) and to add allowance for specialty metal scrap from motor vehicles.

Response: The EPA agrees with the rationale for the suggested changes and we have made revisions to the rule to make this rule more similar to 40 CFR part 63, subpart YYYYY, as described below in section IV.C.5. In terms of NVMSRP participation, the proposed rule was identical to subpart YYYYY except for the scrap plan requirement; we have removed the scrap plan requirement in the final rule. As discussed above in a previous comment, in the final rule, we have revised the proposed option that allowed sources to comply by certifying that the facility's scrap is "not likely to contain motor vehicle scrap." As finalized, the facility can establish compliance with the mercury emission limit by certifying the absence of mercury switches in their scrap, as appropriate for their facility: By either certifying that their scrap is recovered for its specialty alloy content, or their scrap does not contain motor vehicle scrap, or their scrap does not contain shredded motor vehicle scrap.

Comment: One commenter stated the proposed annual testing for sources opting to comply under subpart FFFFF Table 1 should be revised to once per five-year title V permit term, which is consistent with frequencies for other title V testing requirements for the sources, such as for secondary BOPF baghouses. The commenter stated more frequent testing is unnecessary given that emissions are steadily declining among the source category in conjunction with the depletion of mercury switches in automotive scrap. If the EPA believes that more frequent than once-per-term testing is needed, the commenter stated EPA then should adopt a twice per five-year permit term, similar to the testing frequency for primary BOPF controls, given the high cost of testing. The commenter stated requiring annual testing would be excessive, costly, without basis, and inconsistent with any other requirements in the subpart FFFFF standards. In the event that EPA retains the annual testing requirement, the commenter stated revisions to the proposed language regarding time between performance tests should be made to clarify the point at which facilities should begin to calculate these dates.

Response: The EPA agrees with a reduction in testing frequency to coincide with tests for PM already promulgated in the rule (40 CFR 63.7821(b)) for units equipped with control devices other than a baghouse (which includes all of the primary BOPF control devices), which will reduce the testing burden on the industry. The change is as follows (for testing compliance option, only): Change from annual testing to twice per permit cycle (initial/final and mid-term) for facilities with title V permits, and every 2.5 years for facilities without a title V permit, to match the PM testing frequency in 40 CFR 63.7821. Testing would then take place after the initial performance test at the next specified point in the permit cycle, either at initial, final, or mid-term of the permit (for facilities with permits), whichever comes first after the initial performance test, which is one year after the effective date of the rule, or within 2.5 years after promulgation (for facilities without permits).

Comment: One commenter stated in any final rule, and consistent with the approach the EPA took in the ICR testing, the EPA should explicitly provide for similar units at a source to rely on the testing of one of those units for subpart FFFFF Table 1 compliance demonstration purposes, where the units are exhausted to the same type of control device, processed the same types of materials, were similar size and design, and have similar operating conditions.

Response: We understand the economic benefit associated with reducing the testing burden where possible. The EPA allows testing of representative units on a case-by-case basis as described in the 2009 EPA guidance document, *Clean Air Act National Stack Test Guidance,*[16] pursuant to the EPA's authority cited in the General Provisions to part 63 at 40 CFR 63.7(h). Similar to the requirements to establish similarity that was used in the integrated iron and steel ICR for this RTR, the stack test guidance requires submission of design and operating parameters to establish the case of identical units, as described further in the guidance, with the final decision to be determined by the Administrator or delegated authority. The EPA thus provides options for reducing testing burden and no addition to or modification of the rule is needed to provide this testing option.

Comment: One commenter stated the proposed 40 CFR 63.7825(a)(2) provision requires either a single compliance test with all affected units in operation or separate compliance tests on each emission unit in the BOPF Group. The commenter stated most facilities have multiple stacks that

[16] *Clean Air Act National Stack Test Guidance.* U.S. Environmental Protection Agency, Washington, DC. April 27, 2009. (Docket ID Item No. EPA–HQ–OAR–2002–0061). *https://www.epa.gov/sites/production/files/2013-09/documents/stacktesting_1.pdf.*

would need to be tested under the current Proposed Rule; simultaneously testing all stacks during a single compliance testing event would be difficult or impossible. The commenter stated this leaves the option of performing separate compliance testing on each emission unit. The commenter stated proposed 40 CFR 63.7825(a)(2) requires that when units are tested separately, they must be tested "as soon as is practicable," which is not defined. The commenter stated the EPA should allow a three-month period for all stacks to be tested. To implement this, the commenter stated the EPA should create a new subparagraph, *e.g.,* 63.7825(a)(3), as follows: "Testing of related BOPF Group units shall be conducted within a 3-month period."

The commenter stated since the BOPF Group mercury limit applies to all BOPF shop steelmaking operation units, the compliance demonstration for performance testing requires mercury emissions from all BOPF Group stacks to be added up to demonstrate compliance. The commenter stated this calculation cannot be made until all BOPF Group sources have been tested. Under proposed 40 CFR 63.7840(e)(2), the commenter stated facilities are required to submit a notification of compliance status within 60 days of completion of the performance test. The commenter requested that EPA allow for one notification of compliance status to be submitted 60 days after the final performance test. The commenter also stated that in the proposal, facilities are required to provide a 60-day notification of intent to conduct performance testing. Therefore, the commenter requested that the rule also provide that the 60-day notice be submitted at least 60 days prior to the first BOPF Group unit control device test; then the initial testing notification can be required to include a schedule of when testing of other BOPF Group unit control devices will be tested, rather than require additional notification for subsequently tested sources.

Response: The EPA has decided that it is not appropriate to allow a three-month window for testing because this time period likely would include very different batches of scrap and possibly wide variation in levels of mercury. However, we discuss in the previous comment and response that EPA provides for facilities to be able to apply for a waiver of testing in the case of multiple and identical units via stack test guidance [16] pursuant to EPA's authority in 40 CFR 63.7(h). For the final rule, the EPA changed the requirement for a 60-day notification of the start of "mercury compliance testing" to "notification of the first compliance test in the BOPF Group with a schedule of all subsequent tests in the BOPF Group." The final rule also differs from the proposed rule in that it states that "for the purposes of submitting the notification of compliance status, the performance test shall be considered complete when the final BOPF Group unit control device is tested." These changes eliminate multiple start notices for testing of the BOPF Group and clarify that only one notice of compliance status is needed to show compliance with the mercury emission limit. Because all units in the BOPF Group must be tested before the mercury emissions can be calculated and compared to the emission limit in the rule, it is logical to require one notice of compliance status after the last BOPF Group unit is tested. See section IV.C.5 below for details of the rule changes.

Comment: One commenter stated mercury testing samples were collected during the ICR process following sampling procedures in 40 CFR 63.7822(f), (g), and (h), which dictate when sampling begins and ends during specific process BOPF operations for PM testing. The commenter stated the same procedures should apply to mercury testing and should be incorporated by reference in the mercury testing requirements. Accordingly, the commenter stated proposed 40 CFR 63.7825 should be modified to include the procedures in 40 CFR 63.7822(f), (g), and (h) as applicable.

Response: The EPA agrees that mercury testing samples were collected during the ICR process following sampling procedures in 40 CFR 63.7822(f), (g), and (h). Therefore, we have added these procedures to the final rule. See section IV.C.5 for details of the rule changes.

Comment: One commenter stated the 40 CFR 63.7825(b)(2) provision requires a minimum sample volume of 60 dscf of gas during each mercury test run. The commenter stated it is inappropriate to collect 60 dscf when using EPA Method 30B because the method itself contains guidelines for selecting proper sampling rates. The commenter stated the collection of 60 dscf should be clarified to only apply to EPA Method 29 or other isokinetic sampling methods.

Response: We agree with the commenter that EPA Method 30B has a method-specific volume requirement tied to the detection limit of the method, so we do not need to identify a minimum volume for EPA Method 30B in the rule. However, a sample volume of 60 dscf is appropriate for EPA Method 29. The rule text has been revised to specify that the 60 dscf minimum sample volume applies to Method 29 only. See section IV.C.5 for details of the rule changes.

Comment: One commenter stated the EPA should also include EPA Method 101A, *Determination of Particulate and Gaseous Mercury Emissions From Sewage Sludge Incinerators,* which is a viable alternative to both EPA Methods 29 and 30B.

Response: The EPA does not consider EPA Method 101A to be equivalent to EPA Method 29 for mercury measurement for all purposes. However, the EPA is willing to consider EPA Method 101A as an alternative test method under the General Provisions to 40 CFR part 63 (40 CFR 63.7(f)) on a case-by-case basis, provided the petitioner can provide adequate information demonstrating that this candidate method is equivalent to the standards (*i.e.,* EPA Methods 29 and/or 30B). The proposed rule text has been revised to elaborate on EPA's ability to allow alternative test methods to be considered on a case-by-case basis. See section IV.C.5 for details of the rule changes.

Comment: One commenter stated in order to use the NVMSRP or equivalent program option, the EPA lists in proposed 40 CFR 63.7791(a) and (c) a host of requirements that companies will need to meet. The commenter stated a key purpose of the NVMSRP was to have suppliers register and participate so that companies could rely on that participation to prevent mercury from entering their feedstocks in the form of automotive shredded scrap. The commenter stated since its initiation, the NVMSRP has proven to be a success. As recognition of that success, in 2017, the commenter stated that the EPA, along with the original parties to the 2006 agreement, came together to extend the program through 2021. The commenter stated unfortunately, the proposed language fails to recognize that the industry has substantially invested to make the program a success and instead would put individual companies in the role of policing the program. The commenter stated companies need to be able to rely on the program and that its suppliers are participants therein. The commenter stated nothing more should be required.

The commenter said specifically that the EPA should delete 40 CFR 63.7791(a)(3)–(5) and (c)(3)–(5). The commenter stated these provisions are inconsistent with the requirements that apply to the NVMSRP as it is considered an "approved mercury program" in 40 CFR 63.10685 in 40 CFR part 63,

subpart YYYYY. The commenter stated companies are not in a position to renegotiate supplier contracts to allow them to enter and inspect suppliers. Moreover, the commenter stated the EPA is unclear about what "other corroboration" even means in the context of the program; the participation of the suppliers in the program should be sufficient. Finally, the commenter stated any broker contracts would provide that the scrap needs to be from NVMSRP-participating suppliers and it is entirely unclear how the EPA expects companies to ensure that suppliers are "implementing appropriate steps to minimize the presence of mercury in scrap from end-of-life vehicles." The commenter stated that this assurance is implicitly made by contracting for scrap from suppliers participating in the program.

The commenter stated while the EPA correctly states that companies are already participating in the NVMSRP, the requirements in the proposed rule take the verification process to a more burdensome level, which will impose significant additional costs. The commenter stated creating the plans required in the proposed rule is likely to far exceed the proposed approximate $1,000 estimate, given the labor and supervision required, not to mention ongoing plan updates. Moreover, the commenter stated the proposed cost estimate entirely excludes consideration of the massive costs that would be required to satisfy the due diligence obligations the proposed regulatory language would create. For example, according to the commenter, the proposed requirement to "conduct periodic inspections or provide other means of corroboration to ensure that scrap providers and brokers are aware of the need for and are implementing appropriate steps to minimize the presence of mercury in scrap from end-of-life vehicles" would impose an obligation on integrated iron and steel facilities that would be both onerous and expensive. The commenter stated it also would be potentially impossible to satisfy because existing contracts are in place that do not provide authority for the purchaser to inspect suppliers or otherwise ensure *their* "appropriate" implementation of mercury removal practices. If the plan is not removed, and a mercury emission limit is issued, the commenter said the EPA should revise the cost-effectiveness analysis to better account for the costs of the NVMSRP (or equivalent) program. Specifically, the commenter stated the proposal needs to better account for the cost of the NVMSRP option, which is estimated at $1,058 per facility and $11,638 across the industry, with similar costs assumed for certifying compliance not likely to contain automotive scrap.

The commenter stated instead of these requirements, as explained above, the EPA should simply require that the company to purchase from suppliers that state they are participating in the NVMSRP (which may be reflected on invoices or in contracts). The commenter stated additional obligations need not be imposed because the EPA's record for this rulemaking establishes that the NVMSRP is an effective program for removing mercury switches from shredded automobile scrap. The commenter stated the EPA can reasonably rely on that record.

The commenter stated similarly, just as the NVMSRP is an EPA approved program, any alternative "approved mercury program" contemplated in the proposal would have the same level of approval as the NVMSRP, and integrated iron and steel facilities should be able to rely on the stipulation in contracts with their scrap suppliers that any shredded automotive scrap received is from NVMSRP or similar EPA-approved program participants and is compliant with the program's standards.

Response: The EPA has considered the commenter's request and rationale, and has eliminated the proposed plan requirement in the final rule and instead is requiring facilities to both identify their scrap dealers or brokers and certify that these dealers and brokers participate in the NVMSRP or other EPA-approved program. See section IV.C.5 of this preamble for details of the rule changes.

Comment: One commenter stated the EPA proposes to require compliance with the proposed mercury emission limits within 1 year of publication of the final rule, and that all other amendments to the 40 CFR part 63, subpart FFFFF standards will become effective 180 days after publication of the final rule. The commenter stated these proposed compliance dates are inadequate to allow facilities to undertake all the necessary planning and operational adjustments needed to ensure compliance with the Proposed Rule. The commenter stated the EPA should not proceed to finalize the proposed mercury provisions with this RTR rulemaking, however, if the Agency proceeds to do so nonetheless, the EPA must provide a 3-year compliance period to allow facilities to comply. The commenter stated because the proposed mercury requirement constitutes new standard setting under CAA sections 112(d)(2) and (3), more time is needed for facilities to ensure compliance. The commenter stated the remaining proposed amendments to the 40 CFR part 63, subpart FFFFF standards will likewise require additional time for facilities to conform their existing practices. The commenter stated the EPA should, thus, extend the proposed effective date of 180 days after promulgation of the final rule to 1 year after that date.

Response: It is our understanding that all facilities are already participating in the NVMSRP and facilities have the option of complying with the mercury emission limit by certifying that all their scrap is from NVMSRP participants (or a similarly-approved program). Further, we determined 1 year after promulgation is sufficient for facilities to familiarize themselves with the new reporting requirements in the amended rule for this compliance option. For these reasons, we have concluded that it is reasonable to require existing sources to comply with the mercury requirements within 1 year. Existing sources will be given 180 days to comply with the changes to the SSM provisions in 40 CFR part 63, subpart FFFFF and all other new or revised requirements in this final rule, except the requirements for mercury. We have determined that there are no other compliance requirements as a result of this rule that require more than 180 days except for those for complying with the mercury emission limit and potentially for electronic reporting. Regarding the electronic reporting requirement, because we are revising the spreadsheet template for integrated iron and steel facilities as a result of comments discussed in section IV.E of this preamble, we are allowing the beginning of electronic reporting of compliance reports to begin 180 days after the new template is available in CEDRI if later than 180 days after promulgation of the final rule.

4. What is the rationale for our final approach for the mercury emission limits?

The mercury MACT limit for existing sources (*i.e.,* 0.00026 lbs of mercury per ton of scrap processed, as an input-based limit) was derived using data obtained from source tests performed to fulfill an EPA ICR to determine the mass of mercury emissions from the BOPF Groups [13] at each facility per mass of scrap used in their BOPFs. The format of this standard is based, in part, on the assumption that the mass of mercury emitted from all BOPFs and related units was substantially equivalent to the mass of mercury in the input materials

because mercury is neither created nor destroyed in the BOPF. Furthermore, based on available data and information, we conclude that the primary source of mercury in the input materials are mercury switches. Therefore, we used mercury-to-scrap input ratios from the best performing five facilities out of all 11 integrated iron and steel facilities in the Integrated Iron and Steel Manufacturing Facilities source category to develop an input-based MACT floor limit for mercury. To establish the limit, we calculated a UPL that incorporates the potential variability in future measurements. Because there are fewer than 30 sources in the Integrated Iron and Steel Manufacturing Facilities source category, as described below, we evaluated the best performing five sources in the category to establish a standard for existing sources, pursuant to CAA section 112(d)(3)(B).

The EPA's MACT analyses used the UPL approach to identify the average emission limitation achieved by the best performing five sources. The EPA uses this approach because it incorporates the average performance of the best performing sources as well as the variability of the performance during testing conditions. The UPL represents the value which one can expect the mean of a specified number of future observations (*e.g.,* three-run average) to fall below for the specified level of confidence (99 percent), based upon the results from the same population. In other words, the UPL estimates what the upper bound of future values will be based upon present or past background data. The UPL approach encompasses all the data point-to-data point variability in the collected data, as derived from the dataset to which it is applied. For more details regarding how this limit was derived, see the technical memorandum on the mercury emission limits, referenced above.

The steel industry submitted comments [15] on the proposed rule indicating that the scrap currently used by all facilities is NVMSRP scrap. Furthermore, industry stated [15] that the performance tests conducted to establish the MACT floor limits and, thus, the MACT for mercury in the proposal were based on facilities participating in the NVMSRP. Because of the projected decline in the number of mercury switches in the automobile fleet over time due to the ban of such switches after 2002, and with the continuing implementation of the NVMSRP, it is reasonable for the EPA to conclude that NVMSRP scrap in the future will contain similar mercury, or more likely less mercury, than the scrap used to develop the MACT floor limits. This rule relies, in part, on that conclusion. Therefore, if a facility chooses to comply with the emission limit by certifying that all their scrap is from NVMSRP participants (or a similarly-approved program) or certify that their scrap does not contain mercury switches, it is also reasonable to conclude that such certification achieves the same level of mercury reduction or more reduction as the numeric MACT floor limits.

The mercury emission limit for new sources in the final rule, at 0.000081 lbs of mercury per ton of scrap processed, was derived using ICR test data of the mass of mercury emissions from all BOPF and related units (HMTDS and ladles) per mass of scrap used by the lowest-emitting facility, pursuant to CAA section 112(d)(3). For the final rule, we are correcting the mercury limit from proposal to include two significant figures, from 0.00008 to 0.000081 lbs of mercury per ton of scrap processed, as in the standard for existing sources and as typically done in EPA regulations.

Following the same reasoning discussed above in connection with the existing source standard, we assumed and industry confirmed [15] that the scrap used by the best performing source was either NVMSRP scrap or scrap with higher amounts of mercury per ton of scrap than NVMSRP scrap. Furthermore, industry stated [15] that the performance tests conducted to establish the MACT floor limits and, thus, the MACT for mercury in the proposal were based on facilities participating in the NVMSRP.

As described above, we expect mercury levels in scrap to continue to decline over time due to the switch ban and success of the NVMSRP. Therefore, it is reasonable for the EPA to conclude that scrap subject to the NVMSRP or other approved scrap program in the future will contain similar levels of mercury or, more likely, less mercury than the scrap used to develop the new source limit. Because mercury levels in scrap in the NVMSRP have decreased since 2011 and continue to decrease, it is reasonable to assume that mercury emissions from sources that obtain their metal scrap from participants of that program (or similar program) will be equal to, or more likely lower than, the MACT floor limits for both new and existing sources.

Similar to existing sources above, for new BOPFs and new facilities, we are finalizing provisions in the NESHAP that allow two options to demonstrate compliance with the input-based limit of 0.000081 lbs of mercury per ton of scrap processed, as follows: (1) Conduct performance test twice per permit cycle, *i.e.,* mid-term and at initial or end term for facilities with permits or every 2.5 years for facilities without permits, after the initial performance testing, which is required to be performed within 180 days of July 13, 2020 or within 180 days of initial startup of the new BOPF or new facility, whichever is later, convert the sum of the results to input-based units (*i.e.,* lbs of mercury per ton of scrap input) and document the results in a test report created using the ERT and submitted electronically to the delegated authority through CEDRI (see section IV.E below); or (2) certify in their semiannual compliance reports, with the first semiannual compliance report required after July 13, 2021 or after initial startup of your BOPF Group, whichever is later, that the facility obtains all of their scrap from NVMSRP participants (or similar program as approved by the delegated authority) or certify that their scrap does not contain mercury switches. However, based on consideration of comments, in this final rule the EPA has eliminated the proposed requirement to develop and maintain onsite a scrap plan demonstrating the manner through which facilities are participating in the NVMSRP or similar approved program. Facilities complying via the performance testing option and facilities complying via the NVMSRP or similarly-approved program, or facilities that use scrap that does not contain mercury switches will have 1 year to comply. New facilities must be in compliance with the rule upon startup.

5. What rule changes did we make to the final rule for the mercury emissions standards from proposal?

In response to comments submitted in regard to the proposed mercury emissions standards, we made the following changes for the final rule:

- Added 40 CFR 63.7783(f) to establish the deadline for existing and new affected sources to comply with the emission limitations for mercury;
- Revised proposed 40 CFR 63.7791 title to "How do I comply with the requirements for the control of mercury?";
- Revised proposed 40 CFR 63.7791 opening paragraph to start with the letter (a); renamed "Compliance deadlines"; created new subsections 40 CFR 63.7791(a)(1), 63.7791(a)(2), 63.7791(b)(1) through (3); re-lettered the subsections that followed: 63.7791(c)(1) through (4); 63.7791(d)(1) through (3); and 63.7791(e)(1) through (4); and updated citations throughout the remaining rule text to reflect new organization;

• Revised 40 CFR 63.7791(c)(2) (proposed as (a)(2)) to specify the notification of compliance requirement to identify all scrap providers in semiannual compliance report;

• Revised 40 CFR 63.7791(c)(3) (proposed as (a)(3)) to specify the requirement to identify all scrap providers used by all scrap brokers in semiannual compliance report;

• Removed proposed 40 CFR 63.7791 (a)(4) scrap plan requirement to develop and maintain onsite plan demonstrating the manner through which facilities are participating in the NVMSRP (or other EPA-approved program);

• Revised 40 CFR 63.7791(d) (proposed as (b)(1)) to delete the scrap plan features to obtain information from scrap suppliers or other entities with established knowledge of scrap content that the steel scrap used is not likely to contain motor vehicle scrap and maintain records of this information, and reassigning proposed 40 CFR 63.7791(b)(2) as new, revised 40 CFR 63.7791(d);

• Added 40 CFR 63.7791(d)(1) through (3) regarding compliance by certification of the use of scrap that does not contain mercury switches or is recovered for the specialty alloy content;

• Removed proposed 40 CFR 63.7791 (c)(1)(i) through (iii), limitations on future approved programs;

• Revised 40 CFR 63.7791(e)(2) (proposed as (c)(2)) to specify the notification of compliance requirement to identify all scrap providers in semiannual compliance report;

• Revised 40 CFR 63.7791(e)(3) (proposed as (c)(3)) to specify the requirement to identify all scrap providers used by all scrap brokers in semiannual compliance report;

• Removed proposed 40 CFR 63.7791(c)(4) scrap plan requirement to prevent limitations on future approved plan, and reassigned proposed 40 CFR 63.7791(c)(5) as new, revised 40 CFR 63.7791(e)(4);

• Added 40 CFR 63.7820(e)(1) through (4) to establish the deadlines for conducting initial performance tests to demonstrate compliance with the mercury emission limitations;

• Added and revised 40 CFR 63.7821(e) to require performance tests to be conducted twice per permit cycle for sources with title V operating permits and every 2.5 years for sources without a title V operating permit;

• Added 40 CFR 63.7825 for test methods and other procedures to demonstrate initial compliance with the emission limit for mercury;

• Revised 40 CFR 63.7825(a) to clarify that initial compliance tests must be conducted by the deadlines in 40 CFR 63.7820;

• Revised 40 CFR 63.7825(b)(1)(v) to clarify that the minimum sample volume of 1.7 dry standard cubic meters (dscm) (60 dry standard cubic feet (dscf)) is for EPA Method 29 only and to clarify alternative test methods can be considered on a case-by-case basis per 40 CFR 63.7(f);

• Revised 40 CFR 63.7825(b)(2) to remove requirement of minimum sample volume of 1.7 dscm (60 dscf);

• Added to 40 CFR 63.7825(b)(3), (b)(4)(i), (b)(4)(ii), and (b)(5) to make sampling procedures consistent with 40 CFR 63.7822(f), (g), and (h) in regard to when sampling should start and stop for BOPF operations;

• Revised 40 CFR 63.7825(c) Equation 1 to correctly calculate the mass emissions and revised units to those typically used in the measurement of metals;

• Revised 40 CFR 63.7833(h) to clarify requirements for demonstrating compliance with the mercury emission limits in Table 1 through mercury performance testing;

• Revised 40 CFR 63.7833(i) to clarify requirement for demonstrating compliance with the mercury emission limits in Table 1 by certifying participation in the NVMSRP or another EPA-approved mercury program, or by using scrap that does not contain mercury switches;

• Revised 40 CFR 63.7840(e) requirement for notification of mercury compliance testing for BOPF Group units to include notification of the first mercury compliance test in the BOPF Group along with a schedule of all subsequent tests in the BOPF Group, and that testing is considered complete when the final unit or control device in the BOPF Group is tested;

• Revised 40 CFR 63.7840(f) to include citation to 40 CFR 63.7791(c), (d), and (e) (proposed as (a), (b), and (c));

• Revised 40 CFR 63.7840(f)(1) to remove requirements regarding preparing a plan per proposed 40 CFR 63.7791 (a)(4) or (c)(4);

• Added 40 CFR 63.7841(b)(11) to clarify the reporting statements required per 40 CFR 63.7791(c), (d) or (e);

• Revised 40 CFR 63.7852 to add or change definitions for "basic oxygen process furnace group," "mercury switch," "motor vehicle," "motor vehicle scrap," "opening," "post-consumer steel scrap," "pre-consumer steel scrap," "steel scrap," "scrap provider;" "shredded motor vehicle scrap," and "specialty metal scrap;" and

• Revised the mercury emission limits in Tables 1, 2, and 3 from 0.00008 to 0.000081 lbs of mercury per ton of scrap processed to include two significant figures.

D. Changes to SSM Provisions

1. What did we propose for SSM?

On August 16, 2019, we proposed to eliminate the SSM exemption in this rule which appears at 40 CFR 63.7810(a). We also proposed to revise the references in Table 4 (the General Provisions table) of 40 CFR part 63, subpart FFFFF, including the references to 40 CFR 63.6(f)(1) and (h)(1), which were vacated by the Court in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). Consistent with *Sierra Club* v. *EPA,* we proposed that the standards in this rule would apply at all times. We also proposed several additional revisions to Table 4 of 40 CFR part 63, subpart FFFFF. For example, we proposed to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also proposed to eliminate or revise certain recordkeeping and reporting requirements related to the SSM exemption. We aimed to ensure that the provisions we proposed to eliminate were inappropriate, unnecessary, or redundant in the absence of the SSM exemption.

2. How did the SSM provisions change for the Integrated Iron and Steel Manufacturing Facilities source category?

We did not make any major changes to the proposed SSM provisions for the Integrated Iron and Steel Manufacturing Facilities source category. We made minor edits to the proposed SSM provisions in response to comments that are shown in section IV.D.5, below.

3. What key comments did we receive on SSM, and what are our responses?

This section provides a summary of key comments and responses regarding SSM. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–0083).

Comment: One commenter stated certain aspects of the Proposed Rule, including the proposed elimination of the SSM exemption, are not based on the EPA's authority to conduct RTR rulemakings under CAA sections 112(f)(2) and (d)(6) but, instead, invoke the EPA's discretion to exercise its other statutory authorities in the same rulemaking. The commenter stated the

proposed elimination of the SSM exemption would bring the 40 CFR part 63, subpart FFFFF standards in line with relevant Court decisions by the D.C. Circuit. The commenter stated in certain cases, the EPA's proposed language would create redundancies and pose problems for compliance that should be addressed.

The commenter stated the EPA should not finalize the additional recordkeeping and reporting requirements included in the proposal under 40 CFR 63.7835, 63.7841, and 63.7842 that would add regulatory burden without adding apparent value.

The commenter stated the preamble explains that the requirement would "ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard." The commenter stated the preamble provides no information or examples of how or why the absence of this information has created any issues for the EPA or those subject to the regulation. As a practical matter, the commenter stated, it may not be possible to estimate the quantity of "each regulated pollutant" emitted over any emission limit.

The commenter stated the NESHAP provides for work practices and involves regulation of HAP emissions with the use of surrogates. Given that SSM or deviation reports may be due to a permitting authority in relatively short order, the commenter stated it could be very difficult to meet this requirement even where an estimate could be generated. The commenter stated minimizing regulatory burden and avoiding information "creep" that tends to institutionalize higher costs are important concerns for regulated entities; it is unclear why this information needs to be supplied on an ongoing basis, rather than providing it in response to an expected, infrequent request from a regulatory authority. Thus, the commenter stated the EPA should remove the proposed requirements to provide estimates quantifying emission limit exceedances or methods used to estimate those emissions in the proposed recordkeeping and reporting requirements in 40 CFR 63.7835, 63.7841, and 63.7842.

Response: The EPA disagrees that the additional reporting and recordkeeping requirements add burden without value. As stated in the proposed rule, recordkeeping and reporting of the information specified in 40 CFR 63.7835, 63.7841, and 63.7842 ensure that there is adequate information to determine compliance, allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

The procedure for estimating the quantity of pollutant emitted during the deviation is left open because we recognize that precise or direct measurement is not likely unless the failure to meet the applicable standard happens to occur during a performance test. The estimate of emissions is not for each HAP emitted, but for the regulated pollutant, which in the case of a surrogate such as PM, is the surrogate pollutant (PM) itself. A facility has the flexibility to employ any reasonable means to estimate the emissions from a deviation (*e.g.,* mass balance calculations, measurements when available, or engineering judgment based on known process parameters or the effects of a work practice). The estimation of the quantity of pollutant emitted, as the product of the mass emission rate (determined from emissions concentration and gas flow) and the duration of the deviation, are direct indicators of the severity of an issue. Therefore, we maintain that it is appropriate and feasible for facilities to estimate the quantity of each regulated pollutant over the emission limit.

The SSM reports are no longer required by this rule with the removal of the SSM provisions, and the deviation reports are part of the semiannual compliance report, occurring on a known schedule, and have a fixed reporting deadline of 31 days after the end of the reporting period. This deadline provides sufficient time for reporting a deviation that may have occurred on the final day of the reporting period. The EPA is retaining the additional recordkeeping and reporting elements in the final rule, with the exception of the number of deviations, which is unnecessary in light of all deviations being reported.

We agree with the commenter that one of the proposed new SSM requirements, the inclusion of compliance procedures and emissions calculations in the Operations and Maintenance Plan, was not consistent with required content or use of an Operation and Maintenance Plan. To address this inconsistency, we removed certain SSM provisions, described below in section IV.D.5. In addition, see other related rule changes included under electronic reporting, in section IV.E.5 of this preamble.

4. What is the rationale for our final approach for the SSM provisions?

In finalizing the SSM standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods. The integrated iron and steel industry has not identified (and there are no data indicating) any specific problems with removing the SSM exemption. We solicited comment on whether any situations exist where separate standards, such as work practices, would be more appropriate during periods of startup and shutdown rather than the current standard. We did not receive any comments on this topic.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, "sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment." (40 CFR 63.2) (definition of malfunction).

The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level "achieved" by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation "achieved" by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level "achieved" by the best performing sources when setting emission standards. As the Court has recognized, the phrase "average emission limitation achieved by the best performing 12 percent of sources" says nothing about how the performance of the best units is to be calculated. *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of

the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

As the Court recognized in *U.S. Sugar Corp.,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 ("the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances."). As such, the performance of units that are malfunctioning is not "reasonably" foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an Agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.'"), See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties', such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, when the EPA conducted the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunctions that result in releases from pressure relief devices or emergency flaring events because the EPA had information to determine that such work practices reflected the level of control that applies to the best performers. 80 FR 75178, 75211–14 (December. 1, 2015). The EPA will consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, "sudden, infrequent, not reasonably preventable," and was not caused (in any way) by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the Federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).

We are requiring compliance with the SSM changes for existing sources 180 days from publication of the final rule. This period of time will allow facilities to read and understand the amended rule requirements, to evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments, and to convert reporting mechanisms to install necessary hardware and software. The EPA considers a period of 180 days to be the most expeditious compliance period practicable for these source categories and, thus, all affected sources must comply with the revisions to the SSM provisions and electronic reporting requirements no later than 180 days from the effective date of the final rule, or upon startup, whichever is later.

5. What rule changes did we make for the final rule for the SSM Provisions?

In response to comments submitted in regard to the SSM provisions, we made the following changes for the final rule:

- Removed proposed 40 CFR 63.7800(b)(8), "The compliance procedures within the operation and maintenance plan shall not include any periods of startup or shutdown in emissions calculations."

E. Electronic Reporting

1. What did we propose for electronic reporting for the Integrated Iron and Steel Manufacturing Facilities source category?

On August 16, 2019, the EPA proposed the requirement that owners and operators of integrated iron and steel facilities submit the required electronic copies of summaries of performance test and performance evaluation results and semiannual reports through the EPA's CDX using the CEDRI. A description of the electronic data submission process is provided in the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0909). The proposed rule required performance test results to be collected using test methods that are supported by the EPA's ERT, as listed on the ERT website

at the time of the test, be submitted in the format generated through the use of the ERT, and that other performance test results be submitted in PDF using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test would be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For semiannual compliance reports, the proposed rule required owners and operators to use the appropriate spreadsheet template to submit information to CEDRI. A draft template for these reports was included in the docket for this rulemaking, and the final template will be available on the CEDRI homepage (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*). Additionally, the EPA identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report would be within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI that preclude an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.7841(e). The situation where an extension may be warranted due to a force majeure event, which is defined as an event that would be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.7841(f). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

2. How did electronic reporting change for the Integrated Iron and Steel Manufacturing Facilities source category?

There were no major changes to the final rule for electronic reporting for the Integrated Iron and Steel Manufacturing Facilities source category. Minor rule edits were made to the proposed requirements in response to comments and are shown in section IV.E.5 below.

3. What key comments did we receive on electronic reporting, and what are our responses?

This section provides a summary of key comments and responses regarding electronic reporting. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities (Docket ID No. EPA–HQ–OAR–2002–0083).

Comment: A commenter requested minor technical corrections to the compliance reporting template.

Response: The EPA acknowledges the thorough review of the template by the commenter. Updates to the Integrated Iron and Steel Manufacturing Facilities source category compliance template have been made accordingly to better reflect the provisions of the final rule and address industry comments. These corrections are shown in detail in the response to comment document with responses to specific elements of the comments.

4. What is the rationale for our final approach for electronic reporting?

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements, and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy developed in response to the White House's Digital Government Strategy. For more information on the benefits of electronic reporting, see the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0909).

5. What rule changes did we make for the final rule for electronic reporting?

In response to comments submitted in regard to electronic reporting, we made the following changes for the final rule:

- Revised 40 CFR 63.7835 to remove requirement to record number of failures to eliminate redundancy with the spreadsheet template that requires the inclusion of every failure;
- Revised 40 CFR 63.7841(b)(4) to remove requirement to report number of failures to eliminate redundancy with the spreadsheet template that requires the inclusion of every failure;
- Revised 40 CFR 63.7841(b)(7) to include citation to newly added 40 CFR 63.7841(b)(13);
- Revised 40 CFR 63.7841(b)(7)(i) to remove the requirement to report the "number" of deviations;
- Revised 40 CFR 63.7841(b)(8) to include citation to newly added 40 CFR 63.7841(b)(13);
- Revised 40 CFR 63.7841(b)(8)(ii) to add "and duration", as in (iii);
- Revised 40 CFR 63.7841(b)(9) to include citation to newly added 40 CFR 63.7841(b)(13);
- Added 40 CFR 63.7841(b)(13) to provide 180 days after publication in the **Federal Register** for all sources that failed to meet an applicable standard to include in the compliance report for each failure the start date, start time and duration of each failure and a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions;
- Revised 40 CFR 63.7841(c) to specify the beginning of electronic reporting to begin either 180 days after promulgation of the final rule or 180 days after the template is available in CEDRI, whichever is later; and
- Removed proposed 40 CFR 63.7843(d) to eliminate redundancy with existing language in 40 CFR 63.10(b)(1).

F. Other Issues Regarding UFIP Sources of HAP Emissions

In this section we address other issues related to UFIP emissions sources that are not addressed above in section IV.A of this preamble.

1. How were other relevant issues regarding UFIP sources of HAP emissions addressed in the proposed rule for the Integrated Iron and Steel Manufacturing Facilities source category?

As described in Section IV.A of this preamble, in the August 16, 2019, proposal, we discussed seven UFIP HAP emission sources (84 FR at 42708) and requested comments on all aspects of the UFIP analyses. We did not propose any standards for these sources.

The UFIP emission sources described in the proposal included BF bleeder valve unplanned openings (also known as slips), BF bleeder valve planned openings, BF bell leaks, BF casthouse fugitives, BF iron beaching, BF slag handling and storage operations, and BOPF shop fugitives. These UFIP emission sources were identified by observation of visible plumes of fugitives and intermittent emissions being emitted from the seven UFIP sources during inspections by EPA Regional staff[17] and discussed in the technical memorandum titled *Development of Emissions Estimates for Fugitive or Intermittent HAP Emission Sources for an Example Integrated Iron and Steel Facility for Input to the RTR Risk Assessment* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0956). The NESHAP already contains opacity limits for two of these sources—BF casthouse fugitives and BOPF shop fugitives.

The emissions from these UFIP sources were included in the risk assessment in an example facility analysis to assess the potential risk contributed by UFIP and the effect that omission of these sources has on the estimated risks for the source category as a whole. (See section IV.A.1 and Table 2 of this preamble for the risk estimated for the source category).

As explained in section IV.A in regard to the UFIP and potential work practices, and consistent with our explanation in the proposed rule (see 84 FR 42704) that was based on consideration of all our analyses and related information including the risk analysis results, costs, and uncertainties, we determined in the proposal that the current NESHAP provides an ample margin of safety to protect public health and that no additional standards are required under CAA section 112(f). This decision was based largely on the substantial uncertainties in the estimates of the baseline HAP emissions from UFIP emission sources, costs of the work practices, HAP risk reductions that would be achieved by the work practices, and uncertainties raised by industry in their comments regarding potential effects of the work practices on the facilities' operations, safety, and economics.

Furthermore, as described in section IV.B, for most of the same reasons discussed above in regard to ample margin of safety analysis for UFIP emissions, no new standards were proposed for the two regulated UFIP sources under the technology review pursuant to CAA section 112(d)(6).

2. How did the final rule change based on the comments received about UFIP sources?

We are not promulgating any new standards for UFIP emissions sources under the risk or technology reviews, as described in sections IV.A and IV.B. We also are not taking final action to establish additional emission standards for any of the UFIP emissions sources under any other CAA authority at this time. Although we received many comments on UFIP sources, both supporting and opposing additional standards, we did not receive any additional data on UFIP emissions or on the effectiveness of the work practices. We did receive some limited additional information on costs that suggested we may have underestimated the costs for some of the work practices discussed in the proposal, but no citations or documentation were provided to validate the new cost information. We also received comments that suggested we may have overestimated UFIP emissions and control-effectiveness of the work practices, but, again, without any citations of documentation for other emission estimates or control efficiencies of the work practices. For these reasons, and because we do not have adequate information to resolve the substantial uncertainty that remains for the UFIP emissions estimates, control efficiency of the work practices, costs, and other factors, we are not promulgating any new requirements for UFIP sources in this action.

3. What key comments did we receive about UFIP sources that were not already addressed under the risk review section of this preamble and what are our responses?

This section provides a summary of some of the key comments and responses regarding UFIP sources not addressed above in section IV.A.3. A summary of all other public comments on the proposal in regard to UFIP and the EPA's responses to those comments are available in the document *Summary of Public Comments and Responses for the Risk and Technology Review for Integrated Iron and Steel Manufacturing Facilities,* located in the docket for this rule (Docket ID No. EPA–HQ–OAR–2002–0083).

Comment: One commenter recognized that the EPA identified the work practice information as uncertain, and in fact, too uncertain to be relied upon in this rulemaking. The commenter appreciated the EPA's recognition of these issues and supported the Agency's conclusions. The commenter is pleased that the EPA is not proposing to rely on unsupported conclusions as part of a final rule.

Another commenter stated the EPA created the "UFIP" designation to refer to emissions that facilities generally try to prevent from occurring in the first place. In other words, facilities are already naturally incentivized to prevent many UFIP emissions as they reflect nonoptimal operation. Thus, the commenter says, facilities operate to minimize these emissions without additional regulatory requirements; imposing a regulatory overlay would be problematic from an operational perspective and would not lead to reduced emissions. The commenter stated regulating these sources would dictate *how* facilities operate—effectively freezing approaches in time when they should be evolving as part of the continuous improvement process. Second, the commenter stated regulation would impose a one-size-fits-all approach for sources that make products in different ways and have different configurations. Third, the commenter stated regulation of UFIP would create a micro-managerial structure that would be costly—even if not from a capital investment perspective—because of the operational nature of many of the approaches the EPA considered. This micro-managerial structure, the commenter stated, would lead to only "paperwork" deviations, by imposing onerous recordkeeping requirements, which will mean that operators' and inspectors' attention will be taken away from critical aspects of plant operations, even when a plant is not causing increased emissions. Thus, the commenter concluded the emission reduction practices presented by the EPA for UFIP sources provide no risk reduction benefit despite the cost and effort they entail. Finally, the commenter stated that, given the intense competition in this industry, which stretches well beyond U.S. borders, these requirements would put U.S. facilities at a cost disadvantage—and

[17] See the report, *EPA Region V Enforcement Summary—UFIP Opacity from Integrated Iron and Steel Facility Violation Reports—2007 through 2014.* (Docket ID Item No. EPA–HQ–OAR–2002–0083–0997.)

would do so without generating commensurate emissions and risk reductions.

The commenter stated the EPA appropriately acknowledges that there are significant uncertainties in costs, effectiveness, and feasibility of the work practice options on which it seeks comment. The commenter stated the estimates in the proposal drastically understate the costs and likewise overstate any emission reductions that would be achieved, since companies already work to prevent these emissions and are incentivized to do so to maintain their operations in the most efficient and safe manner. Although the EPA estimates the specific costs for each of the work practices discussed in the proposal preamble, the commenter stated the EPA fails to attribute potential HAP emissions reductions individually, and, thus, does not appropriately estimate cost effectiveness. The commenter stated that, even without these additional considerations, the EPA is right not to require them, and that with an accurate view of the costs and benefits of this regulatory overlay, the EPA decision is unquestionably correct.

The commenter stated given the risk modeling, the work practice options discussed are not necessary to provide an ample margin of safety. The commenter stated the various compliance and enforcement documents related to the so-called UFIP sources in the rulemaking docket are not to the contrary. Moreover, the commenter stated it would be unreasonable to require the potential work practices as doing so would codify practices that already occur voluntarily or pursuant to current federal or state requirements and drive up costs of compliance without resulting in any risk reduction. The commenter stated adding a substantial administrative burden to an important economic sector, particularly without clear benefit, is contrary to Congress' purpose under the CAA and with reasoned decision-making. The commenter stated the focus should be on maximizing environmentally beneficial results, not paperwork. The commenter stated codifying work practices that already take place on a case-by-case basis would result in a misdirection of resources not only from the steel industry to comply with added monitoring, recordkeeping, and reporting requirements, but also from the EPA by having to assure compliance with details that ultimately have little bearing on air quality and public health.

The commenter stated many of the work practices are practically infeasible as applied to particular plants or, generally, not cost effective and, in some instances, could even be contrary to practices established to assure facility safety, such as what would result from reducing natural ventilation and other effects of closing the openings and air holes in the BF casthouse and BOP shop. These effects include cost to the facility to otherwise increase breathing space ventilation for workers; the wear and tear on control equipment due to higher-than-design air flowrates; the cost to document opening and closing of doors, windows, *etc.,* to accommodate large equipment and vehicle traffic into buildings; difficulty in accessing some openings that may be hundreds of feet off the ground, requiring significant precautions due to the height alone; and prevent the opening of pressure relief panels, which would badly damage building exteriors during high-pressure events, etc. Therefore, the commenter stated the EPA should, thus, finalize its proposal not to amend 40 CFR part 63, subpart FFFFF to require additional work practices for UFIP sources.

Response: The EPA acknowledges the support by the commenter for the proposed conclusions, which are being finalized in this document. The EPA also acknowledges, as the commenter points out, the complexities in controlling emissions from UFIP sources. The EPA also is pleased to know that the industry is already attempting to minimize these emissions.

We do not agree with the commenter that many of the work practices are "practically infeasible" at all plants, but we cannot adequately assess the effectiveness or impacts of the work practices without more specific descriptions of actual facility experience with, or analyses of, the impacts of the work practices, including potential changes in air flow into and out of the buildings beyond the extreme consequences hypothesized by the commenter, which mostly only concern BF casthouse and BOP shop operations. With the understanding that the work practices could be more difficult to implement at some facilities than others, we sought specific comments on the general feasibility of the work practices, with the hope that commenters could have described ways to improve or modify the work practice so as to be amenable to their use at all facilities. Unfortunately, we received very little information through the public comments to improve our understanding of which work practices would be generally feasible and appropriate across the industry.

In regard to calculating cost effectiveness, since the HAP being evaluated are all various PM HAP metals, we conclude that it would neither be appropriate nor logical to apportion control costs of a work practice or control device to each metal HAP in this case, mainly because the intent of the control methods we analyzed is to minimize emissions of the mix of PM HAP metals. Nevertheless, as described elsewhere in this preamble, the EPA is not promulgating any new or revised standards for UFIP sources in this action.

Comment: One commenter stated, based on the record, it is unclear how or why the EPA ended its staff's consideration of the work practice standards for the proposal, or on what basis it did so. In addition, the commenter noted that the EPA contacted Michigan and Indiana and provided "draft work practice standards," as shown by email communications with these states in 2018. The commenter continued that there was some material in the bodies of the emails that the EPA has disclosed showing these would likely have been important and achieved significant emission reductions. It is clear to the commenter that the EPA staff long planned to propose significant emission reduction requirements, based on the evidence they have in the record, and that the state air quality inspectors and regulators also supported these requirements.

The commenter stated the EPA has failed to show how it can lawfully or rationally not follow what its own regulatory staff initially provided to stakeholders, what its enforcement staff apparently support (EPA Region V), and what state regulators in Michigan and Indiana have also supported as needed to reduce UFIP emissions and protect public health. The commenter stated the EPA's "about-face" from its staff's and state air regulators' recommendations, and its ultimate refusal to follow the evidence in the record illustrate that this proposal, if finalized, would be unlawful and arbitrary. The commenter stated it appears that the EPA Administrator has not acted with the requisite open mind to consider the relevant statutory requirements, record, or staff recommendations which would have led to a stronger proposal and a stronger final rule. The commenter stated the EPA will violate the CAA and engage in the ultimate in capricious decision making if it attempts to finalize this proposed rule which lacks the necessary statutory requirements as well as the required rational connection to the facts shown in the record.

Response: While the EPA agrees with the commenter that the UFIP HAP emissions issue and related information

available to the EPA were worthy of bringing forth to the public and asking for comment in the proposal, no additional technical information was received to improve our understanding or quantification of the UFIP emissions or our understanding of the effectiveness of using work practices to control UFIP emissions. We received some new cost information that suggests that we underestimated the costs of the work practices, but that new information was not documented or cited. We also received comments that we overestimated UFIP emissions and overestimated the effectiveness of the work practices, which combined with information suggesting we underestimated costs, if accurate, would make control of UFIP emissions substantially less cost-effective than the values we presented in the proposal preamble. In addition, although environmental groups submitted comments in general support of UFIP regulations, no comments were received from citizens or community groups living in the areas of the integrated iron and steel facilities supporting the UFIP emission regulations, or on the impact to local residents of not requiring work practices to reduce emissions from these sources, or any other claims as such. Therefore, because of the uncertainty in the UFIP emission estimates, cost estimates, and control efficiencies of the work practices; and the lack of complete information about the impact of UFIP emissions at all facilities (as described above in previous comments), the EPA is not promulgating any work practice standards for UFIP emissions at this time. See above section IV.A for a more detailed discussion of the estimated risk from UFIP emissions.

4. What is our rationale for our final approach for the UFIP sources?

The decision not to promulgate any new standards for UFIP sources at this time is based largely on the uncertainties in the UFIP assessment in terms of the emission estimates, costs of the work practices, how much emission reduction the work practices could achieve, and the potential negative effects of the work practices on the facilities' operations, safety, and economics. For five of the UFIP sources not currently regulated,[18] we would need to promulgate standards for these sources pursuant to CAA section 112(d)(2) and (3), which would necessitate an analysis of the top performers under CAA sections 112(d)(2) and (3). The lack of quantitative emissions data (and the time and techniques to obtain such data) for UFIP sources and/or the lack of other relevant information (such as reliable information regarding the effectiveness of each of the work practices), which is needed to establish the top performing facilities and the MACT floor level of control, prevents us from establishing appropriate emissions standards for the five UFIP sources at this time.

With regard to the other two UFIP sources currently regulated (*i.e.,* BF casthouse and BOPF shop), since we have concluded that risks due to emissions from the source category are acceptable, we would need to promulgate standards for these two UFIP sources pursuant to CAA section 112(d)(6) or under the ample margin of safety analysis phase of our section 112(f) review, both of which include considerations of costs and other factors. As explained previously in this preamble, the EPA has decided to not promulgate any of the work practices for these two UFIP sources at this time mainly because of the substantial uncertainties in the UFIP assessment in terms of baseline emissions, costs of the work practices, how much emission reduction the work practices could achieve; and, the potential negative effects of the work practices on the facilities' operations, safety, and economics.

G. Other Items

Other items in this final rule are IBR, compliance dates, and other rule changes not discussed elsewhere in this preamble. These issues are discussed below.

1. IBR Under 1 CFR Part 51

On August 16, 2019, the EPA proposed regulatory text that includes IBR. In accordance with requirements of 1 CFR 51.5, the EPA proposed to incorporate by reference the following documents and to amend 40 CFR 63.14 to identify the provisions for which these documents are IBR approved for this rule:

- ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for 40 CFR 63.7822(b), 63.7824(e), and 63.7825(b). This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. The gases addressed in the method are oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons. The method is approved for this rule with caveats described in section VI.J of this preamble.
- EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, IBR approved for 40 CFR 63.7831(f). This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures.

For the final rule, in response to comments, we have added the following voluntary consensus standard (VCS) approved as an alternate method to measure opacity under 40 CFR part 63, subpart FFFFF, with caveats described in section VI.J of this preamble; we will incorporate the method by reference in the amendments to 40 CFR 63.14:

- ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016, IBR approved for 40 CFR 63.7823(c), 63.7823(d), 63.7823(e), and 63.7833(g). This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. The method is approved for this rule with caveats described in section VI.J of this preamble.

The ANSI/ASME document is available from the American Society of Mechanical Engineers (ASME) at *http://www.asme.org;* by mail at Three Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. The ASTM D7520–16 document is available from the American Society for Testing and Materials (ASTM) at *https://www.astm.org* or 1100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone number: (610) 832–9500, fax number: (610) 832–9555, or email: *service@astm.org.* The EPA has made, and will continue to make, the EPA document generally available electronically through *https://www.regulations.gov/* and at the EPA Docket Center (see the **ADDRESSES**

[18] The five currently unregulated UFIP sources are BF bleeder valve unplanned openings (also known as slips), BF bleeder valve planned openings, BF bell leaks, BF iron beaching, and BF slag handling and storage operations.

section of this preamble for more information).

2. Compliance Dates

On August 16, 2019, we proposed to provide existing sources with 180 days after the effective date of the final rule to comply with the changes to the SSM provisions in 40 CFR part 63, subpart FFFFF and all other new or revised requirements in this rule except for the mercury emission limits, for which we proposed to require compliance within 1 year. We proposed that new sources, defined as BOPFs, BOPF shops, or facilities constructed or reconstructed after August 16, 2019, would be required to comply with all requirements on the effective date of the final rule, or upon startup, whichever is later.

In the final rule, for the SSM provisions and all other new or revised requirements in this rule except for those related to the mercury standards, we are finalizing the compliance times as proposed (180 days) for existing sources, and new sources will need to comply upon the effective date of the final rule or upon startup, whichever is later. Regarding the mercury standards and associated requirements, we are providing for existing sources the same deadlines as proposed (*i.e.,* 1 year to comply). An additional year may be provided for compliance via the states as per 40 CFR part 63 General Provisions (40 CFR 63.6(i)) for facilities needing to make process changes or install control equipment. As proposed and consistent with the CAA, new sources must comply upon the effective date of the final rule or upon startup, whichever is later.

For electronic reporting, the final rule provides that facilities must comply with the electronic reporting requirements for semiannual compliance reports either 180 days after date of publication in the **Federal Register** of the final rule or 180 days after the electronic reporting template for Integrated Iron and Steel Manufacturing Facilities is available in CEDRI, whichever is later, to allow for EPA revisions to the template in response to comments.

3. What other rule changes did we make in the final rule?

In the final rule, we made the following technical and editorial corrections and clarifications:

- Revised 40 CFR 63.7810(a) to provide sources that commenced construction or reconstruction on or before August 16, 2019, 180 days after publication in the **Federal Register** for all sources to comply with emission limitations during periods of SSM;
- Revised 40 CFR 63.7810(c) to remove the SSM plan requirement 180 days after publication in the **Federal Register** for sources that commenced construction or reconstruction on or before August 16, 2019 and to remove the SSM plan requirement upon publication in the **Federal Register** for all sources that commenced construction or reconstruction after August 16, 2019;
- Revised 40 CFR 63.7810(d) to provide sources that commenced construction or reconstruction on or before August 16, 2019 with 180 days to comply with the general duty requirement in 40 CFR 63.7810(d). Prior to the expiration of the 180 days, such sources must comply with the provisions in 40 CFR 63.6(e)(1)(i);
- Revised 40 CFR 63.7822(a) to provide 180 days after publication in the **Federal Register** for all sources that commenced construction or reconstruction on or before August 16, 2019 comply with the revised requirement to conduct each performance test under conditions representative of normal operations, excluding periods of startup and shutdown and malfunction. Prior to the expiration of 180 days, such sources must comply with the pre-existing requirement to conduct performance tests based on representative performance;
- Revised 40 CFR 63.7822 and 63.7823 to specify the conditions for conducting performance tests;
- Revised 40 CFR 63.7822(b)(1)(iii), 63.7824(e)(1)(iii), and 63.7825(b)(1)(iii) to IBR ANSI/ASME PTC 19.10–1981;
- Revised 40 CFR 63.7822, 63.7823, 63.7824, and 63.7833 to clarify the location in 40 CFR part 60 of applicable EPA test methods;
- Revised 40 CFR 63.7823(a) to specify initial compliance with the opacity limits should be based on representative performance which excludes periods of startup and shutdown and malfunction;
- Added to 40 CFR 63.7823(c)(1), (d)(1)(i), (d)(2)(i), (e)(1) and 63.7833(g)(3) to IBR the ASTM D7520–16 method as an alternative VCS to EPA Method 9 opacity observations; added "For Method 9" to 40 CFR 63.7823(e)(3) to clarify that using an observer is only for EPA Method 9;
- Revised 40 CFR 63.7831(a)(4) to clarify that sources that commenced construction or reconstruction on or before August 16, 2019, and, therefore, are not required to comply during periods of SSM until after 180 days after publication in the **Federal Register**, are subject during that 180 day period to the requirements in 40 CFR 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), (c)(7), and (c)(8);
- Revised 40 CFR 63.7831(a)(5) to clarify that sources that commenced construction or reconstruction on or before August 16, 2019, and, therefore, are not required to comply during periods of SSM until after 180 days after publication in the **Federal Register**, are subject during that 180 day period to the requirements related to SSM plans referenced in 40 CFR 63.8(d)(3);
- Revised 40 CFR 63.7831(a)(6) to provide sources constructed or reconstructed on or before August 16, 2019, and, therefore, are not required to comply during periods of SSM until after 180 days after publication in the **Federal Register**, are subject during that 180 day period to the requirements in § 63.10(c)(1) through (c)(14), and (e)(1) and (e)(2)(i);
- Revised 40 CFR 63.7831(f)(4) to IBR for EPA–454/R–98–015;
- Added 40 CFR 63.7835(d) to specify that for sources that commenced construction or reconstruction after August 16, 2019 the exemptions for deviations that occur during a period of startup, shutdown, or malfunction no longer apply 180 days after publication in the **Federal Register**, and for all other sources the exemptions no longer apply as of the date of publication of the final rule in the **Federal Register**;
- Revised 40 CFR 63.7835, 63.7841, and 63.7842 to include the requirements to record and report information on failures to meet the applicable standard;
- Added 40 CFR 63.7840 and 63.7841 electronic reporting requirements of required summaries of performance test results and semiannual reports;
- Revised 40 CFR 63.7841(b)(4) to specify that for sources that commenced construction or reconstruction after August 16, 2019 a SSM plan and the information in 40 CFR 63.10(d)(5)(i) are no longer required 180 days after publication in the **Federal Register**;
- Added 40 CFR 63.7841(b)(12) to specify that for sources that commenced construction or reconstruction after August 16, 2019 a SSM report is no longer required 180 days after publication in the **Federal Register**;
- Revised 40 CFR 63.7842(a)(2) to specify records related to SSM to be kept;
- Revised Table 1 of 40 CFR part 63, subpart FFFFF to add a mercury emission limit, revised Table 2 to add demonstration of initial compliance with the mercury emission limit, and revised Table 3 to add demonstration of continuous compliance with the mercury emission limit;

- Revised Tables 1 and 3 of 40 CFR part 63, subpart FFFFF to clarify that opacity observations be made at all openings to the BF casthouse;
- Revised Tables 1, 2, and 3 of 40 CFR part 63, subpart FFFFF to clarify that the affected source is each BOPF shop; and
- Eliminated the SSM exemption with revisions to Table 4 (the General Provisions table) of 40 CFR part 63, subpart FFFFF and updated citations throughout the remaining rule text.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected sources?

The affected sources are facilities in the Integrated Iron and Steel Manufacturing Facilities source category. This includes any facility engaged in producing steel from iron ore. Integrated iron and steel manufacturing includes the following processes: Sinter production, iron production, iron preparation (hot metal desulfurization), and steel production. The iron production process includes the production of iron in BFs by the reduction of iron-bearing materials with a hot gas. The steel production process includes BOPF. Based on the data we have, there are eleven integrated iron and steel manufacturing facilities subject to this NESHAP, but one of these facilities is idle.

B. What are the air quality impacts?

We are promulgating standards for mercury that may result in unquantified reductions of mercury emissions and consequently improve air quality to some degree.

C. What are the cost impacts?

In this final rule, we require control of mercury emissions and allow sources to demonstrate compliance through performance testing or scrap selection requirements. We expect that facilities that choose scrap selection as their method of demonstrating compliance likely will not incur operational costs to comply with this requirement because we understand that most, if not all, facilities are already purchasing all their auto scrap from providers who participate in the NVMSRP. Therefore, we estimate a cost of $1,058 per year per facility and $11,639 per year for all 11 facilities in the industry, for recordkeeping and reporting of compliance with the standards.

D. What are the economic impacts?

Negligible economic impacts are expected to be incurred by integrated iron and steel facilities due to the mercury emission limit because the information available to the EPA indicates that most, if not all, facilities are already purchasing scrap from providers who participate in the NVMSRP.

E. What are the benefits?

These promulgated amendments may result in some unquantified reductions in emissions of mercury, depending on the extent of current limitation of mercury input or participation in the scrap selection program by integrated iron and steel facilities. While the industry has reported to the EPA that most, or all, facilities are already meeting the proposed mercury emission limit, to the extent that additional reductions may be achieved, this rule may result in improved health in surrounding populations, especially protection of children from the negative health impacts of mercury exposure.

The requirements to submit reports and test results electronically will reduce paperwork and improve monitoring, compliance, and implementation of the rule.

F. What analysis of environmental justice did we conduct?

For this action, we examined the potential for any environmental justice issues that might be associated with the source category through a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometer (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from point sources in the Integrated Iron and Steel Manufacturing Facilities source category across different demographic groups within the populations living near facilities.

The results of the demographic analysis are summarized in Table 5 below. These results, for various demographic groups, are based on the estimated risk from actual emissions from point sources for the population living within 50 km of the facilities.

TABLE 5—INTEGRATED IRON AND STEEL MANUFACTURING FACILITIES DEMOGRAPHIC RISK ANALYSIS RESULTS

Item	Nationwide	Population with cancer risk at or above 1-in-1 million due to integrated iron and steel manufacturing facilities	Population with chronic HI at or above 1 due to integrated iron and steel manufacturing facilities
Total Population	317,746,049	64,158	0
White and Minority by Percent			
White	62%	63%	0%
Minority	38%	37%	0%
Minority by Percent			
African American	12%	29%	0%
Native American	0.8%	0.1%	0%
Hispanic or Latino includes white and nonwhite)	18%	4%	0%
Other and Multiracial	7%	4%	0%
Income by Percent			
Below Poverty Level	14%	23%	0%
Above Poverty Level	86%	77%	0%
Education by Percent			
Over 25 and without High School Diploma	14%	12%	0%

TABLE 5—INTEGRATED IRON AND STEEL MANUFACTURING FACILITIES DEMOGRAPHIC RISK ANALYSIS RESULTS—Continued

Item	Nationwide	Population with cancer risk at or above 1-in-1 million due to integrated iron and steel manufacturing facilities	Population with chronic HI at or above 1 due to integrated iron and steel manufacturing facilities
Over 25 and with a High School Diploma	86%	88%	0%
Linguistically Isolated by Percent			
Linguistically Isolated	6%	0.6%	0%

The results of the Integrated Iron and Steel Manufacturing Facilities source category demographic analysis indicate that point source emissions from the source category expose approximately 64,000 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer HI greater than or equal to 1. The percentages of the at-risk population in each demographic group (except for African American and Below Poverty Level) are similar to or lower than their respective nationwide percentages. The African American population with cancer risk at or above 1-in-1 million due to Integrated Iron and Steel Manufacturing Facilities source category emissions is more than 3 times the national average. Likewise, populations living "Below Poverty Level" exposed to cancer risk at or above 1-in-1 million is nearly twice the national average. However, the risks to all demographic groups is less than 100-in-1 million.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Integrated Iron and Steel Manufacturing Facilities* (Docket ID Item No. EPA–HQ–OAR–2002–0083–1060).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2003.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

These amendments require electronic reporting; remove the SSM exemptions; and impose other revisions that affect reporting and recordkeeping for integrated iron and steel facilities. We are also promulgating standards for mercury that require facilities to certify the type of steel scrap they use or conduct a performance test. This information is collected to assure compliance with 40 CFR part 63, subpart FFFFF.

Respondents/affected entities: Integrated iron and steel manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart FFFFF).

Estimated number of respondents: 11 facilities.

Frequency of Response: One time.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be 6,500 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for all facilities to comply with all of the requirements in the NESHAP is estimated to be $800,000 (per year), of which $20,000 (per year) is for this rule, and $780,000 is for other costs related to continued compliance with the NESHAP including $50,300 for paperwork associated with operation and maintenance requirements. The total rule costs reflect a savings of $210,000 (per year) from the previous ICR due to the transition to electronic reporting.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. No small entities are subject to the requirements of this rule.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. No tribal governments own facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of this preamble and further documented in the document titled *Residual Risk Assessment for the Integrated Iron and Steel Manufacturing Facilities Source Category in Support of the Risk and Technology Review 2020 Final Rule,* in the docket for this rule (Docket ID No. EPA–HQ–OAR–2002–0083).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 13211.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Therefore, the EPA conducted searches for the Iron and Steel Manufacturing Facilities NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted VCS organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9, 17, 25, 29, and 30B of 40 CFR part 60, appendix A and SW–846 Method 9071B Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publications SW–846 third edition. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for a particular VCS. No applicable VCS were identified for EPA Methods 1A, 2F, 2G, 5D, 30B, and SW–846 Method 9071B.

The EPA is incorporating by reference the VCS ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses." We are revising 40 CFR 63.7822(b), 40 CFR 63.7824(e), and 40 CFR 63.7825(b) to provide that the manual procedures (but not instrumental procedures) of VCS ANSI/ASME PTC 19.10–1981—Part 10 may be used as an alternative to EPA Method 3B.The manual procedures (but not instrumental procedures) of VCS ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see 40 CFR 63.14) may be used as an alternative to EPA Method 3B for measuring the oxygen or carbon dioxide content of the exhaust gas. This standard is acceptable as an alternative to EPA Method 3B and is available from ASME at *http://www.asme.org;* by mail at Three Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. The gases covered in ANSI/ASME PTC 19.10–1981 are oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons, however the use in this rule is only applicable to oxygen and carbon dioxide.

In the final rule, the EPA is incorporating by reference the VCS ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, as an acceptable alternative to EPA Method 9 with the following caveats:

- During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16, the facility or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).
- The facility must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16.
- The facility must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.
- The facility or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.
- This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 is on the facility, DCOT operator, and DCOT vendor. This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. The ASTM D7520–16 document is available from ASTM at *https://www.astm.org* or 1100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone number: (610) 832–9500, fax number: (610) 8329555 at *service@astm.org.*

The EPA is finalizing the use of the guidance document, *Fabric Filter Bag Leak Detection Guidance,* EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, September 1997. This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures. The document is available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF.*

Additional information for the VCS search and determinations can be found

in the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Iron and Steel Manufacturing Facilities,* available in the docket for this final rule.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is included in sections III.A and IV.A of this preamble and the technical report titled *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Integrated Iron and Steel Manufacturing Facilities,* available in the docket for this final rule.

We examined the potential for any environmental justice issues that might be associated with the source category by performing a demographic analysis of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the NESHAP source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report titled *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Integrated Iron and Steel Manufacturing Facilities* (Docket ID No. EPA–HQ–OAR–2002–0083).

The results of the source category demographic analysis for the NESHAP (point sources only) indicate that emissions expose approximately 60 people to a cancer risk at or above 10-in-1 million and none exposed to a chronic noncancer TOSHI greater than or equal to 1. The specific demographic results indicate that the overall percentage of the population potentially impacted by emissions is less than its corresponding national percentage for the minority population (37 percent for the source category compared to 38-percent nationwide). However, the "African American" population (29 percent for the source category compared to 12-percent nationwide) and the population "Below the Poverty Level" are greater than their corresponding national percentages. The proximity results (irrespective of risk) indicate that the population percentages for certain demographic categories within 5 km of source category emissions are greater than the corresponding national percentage for certain demographic groups including: "African American," "Ages 0 to 17," "Over age 25 without a high school diploma," and "Below the poverty level."

The risks due to HAP emissions from this source category are acceptable for all populations. Furthermore, we do not expect this rule to achieve significant reductions in HAP emissions. Therefore, we conclude that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. However, this final rule will provide additional benefits to these demographic groups by improving the compliance, monitoring, and implementation of the NESHAP.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (e)(1), (h)(106), and (n)(3) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), 63.1625(b), table 5 to subpart EEEE, 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table3 to subpart YYYY, 63.7822(b), 63.7824(e), 63.7825(b), 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(h) * * *

(106) ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016, IBR approved for §§ 63.1625(b), table 3 to subpart LLLLL, 63.7823(c) through (e), and 63.7833(g).

* * * * *

(n) * * *

(3) EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.pdf,* IBR approved for §§ 63.548(e), 63.864(e), 63.7525(j), 63.7831(f), 63.8450(e), 63.8600(e), and 63.11224(f).

* * * * *

Subpart FFFFF—[Amended]

■ 3. Section 63.7783 is amended by revising paragraphs (a) introductory text, (b), and (c) and adding paragraph (f) to read as follows:

§ 63.7783 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, standard, and operation and maintenance requirement in this subpart that applies to you by the dates specified in paragraphs (a)(1) and (2) of this section. This paragraph does not apply to the emission limitations for mercury.

* * * * *

(b) If you have a new affected source and its initial startup date is on or before May 20, 2003, then you must comply with each emission limitation, standard, and operation and maintenance requirement in this subpart that applies to you by May 20, 2003. This paragraph does not apply to the emission limitations for mercury.

(c) If you have a new affected source and its initial startup date is after May 20, 2003, you must comply with each emission limitation, standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup. This paragraph does not apply to the emission limitations for mercury.

* * * * *

(f) With regard to the mercury emission limitations, if you have a new or existing affected source, you must comply with each emission limitation for mercury that applies to you by the deadlines set forth in § 63.7791.

■ 4. The undesignated center heading before § 63.7790 is revised to read:

Emission Limitations and Standards

■ 5. Section 63.7791 is added before the undesignated center heading "Operation and Maintenance Requirements" to read as follows:

§ 63.7791 How do I comply with the requirements for the control of mercury?

(a) *Compliance deadlines.* (1) If you have an existing affected source or a new or reconstructed affected source for which construction or reconstruction commenced on or before August 16, 2019, each BOPF Group at your facility must be in compliance with the applicable mercury emission limit in Table 1 of this subpart through performance testing under §§ 63.7825 and 63.7833, or through procurement of steel scrap pursuant to the compliance options in § 63.7791(c), (d), or (e) beginning July 13, 2021.

(2) If you have a new or reconstructed affected source for which construction or reconstruction commenced after August 16, 2019, each BOPF Group at that source must be in compliance with the applicable mercury emission limit in Table 1 of this subpart beginning July 13, 2020 or upon initial startup of your affected source, whichever is later.

(b) *Alternative compliance demonstration.* (1) As an alternative to demonstrating compliance with the emission limits in Table 1 by conducting performance tests pursuant to §§ 63.7825 and 63.7833(h), you may demonstrate compliance with the emission limits in Table 1 by procuring scrap pursuant to the requirements in paragraph (c), (d), or (e) of this section for each scrap provider, contract, or shipment. It is not necessary to use the same BOPF scrap compliance provision for all scrap providers, contracts, or shipments. You may procure some scrap through providers, contracts, or shipments pursuant to one BOPF scrap compliance provision and other scrap through providers, contracts, or shipments pursuant to other BOPF scrap compliance provisions.

(2) To utilize the alternative compliance options established in paragraph (b)(1) of this section, you must submit an initial certification of compliance and semiannual compliance reports consistent with the requirements of §§ 63.7840(f) and 63.7841(b)(9) through (11), and (13), and comply with the recordkeeping requirements in § 63.7842(e) and all other applicable provisions related to demonstrating compliance through participating in an approved mercury program or through the use of scrap that does not contain mercury switches.

(3) For any facility that initially elects to utilize the alternative compliance options established in paragraph (b)(1) of this section, but subsequently stops using scrap that meets the requirements of paragraph (c), (d), or (e) of this section for each scrap provider, contract, or shipment, within 180 days of the change you must, for that BOPF Group, demonstrate compliance through performance testing pursuant to the requirements of §§ 63.7825 and 63.7833(h), and submit a revised notice of compliance status in your next semiannual compliance report described in this section. You must also comply with the requirements for conducting subsequent performance tests in §§ 63.7821(e) and 63.7840(g), and all other applicable requirements related to demonstrating compliance with the emission limits through performance testing.

(c) *Participation in the NVMSRP.* (1) You must obtain all post-consumer scrap that contains motor vehicle scrap from scrap providers who participate in the NVMSRP. The NVMSRP is an EPA-approved program under this section unless and until the Administrator disapproves the program (in part or in whole);

(2) You must certify in your initial notification of compliance status required by § 63.7840(f) and semiannual compliance report required by § 63.7841(a) that you purchased post-consumer steel scrap containing motor vehicle scrap according to paragraph (c)(1) of this section, and identify all your scrap providers in your semiannual compliance report;

(3) If you purchase scrap from a broker, you must certify that all scrap received from that broker was obtained from other scrap providers who participate in the NVMSRP and identify all scrap providers used by all your scrap brokers in your semiannual compliance report; and

(4) You must conduct periodic inspections or provide other means of corroboration to ensure that scrap providers and brokers participate in the NVMSRP and, therefore, are aware of the need for and are implementing appropriate steps to minimize the presence of mercury in scrap from end-of-life vehicles.

(d) *Use of scrap that does not contain mercury switches.* For BOPF scrap not complying with the requirements in paragraph (c) or (e) of this section, you must certify in your initial notification of compliance report required by § 63.7840(f) and semiannual compliance report required by § 63.7841(a) and maintain records of documentation required by § 63.7842(e) establishing that the scrap does not contain mercury switches. You may satisfy this requirement by certifying and documenting that:

(1) The scrap does not contain motor vehicle scrap; or

(2) The scrap does not contain shredded motor vehicle scrap; or

(3) The only materials from motor vehicles in the scrap are materials recovered for their specialty alloy content (including, but not limited to, chromium, nickel, molybdenum, or other alloys); therefore, based on the type of the scrap and purchase specifications, the scrap does not contain mercury switches.

(e) *Use of an EPA-approved mercury removal program.* (1) You must obtain all post-consumer scrap containing motor vehicle scrap from scrap providers who participate in a program for the removal of mercury switches that has been approved by the Administrator;

(2) You must certify in your initial notification of compliance status required by § 63.7840(f) and semiannual compliance report required by § 63.7841(a) that you purchase post-consumer steel scrap containing motor vehicle scrap according to paragraph (e)(1) of this section and identify all your scrap providers in your semiannual compliance report;

(3) If you purchase scrap from a broker, you must certify that all scrap received from that broker was obtained from other scrap providers who participate in a program for the removal of mercury switches that has been approved by the Administrator and identify all scrap providers used by all your scrap brokers in your semiannual compliance report; and

(4) You must conduct periodic inspections or provide other means of corroboration to ensure that scrap providers and brokers are complying with the approved mercury removal

program and, therefore, are aware of the need for and are implementing appropriate steps to minimize the presence of mercury in scrap from end-of-life vehicles.

■ 6. Section 63.7800 is amended by revising paragraph (a) to read as follows:

§ 63.7800 What are my operation and maintenance requirements?

(a) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the requirements in § 63.7810(d).

* * * * *

■ 7. Section 63.7810 is amended by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 63.7810 What are my general requirements for complying with this subpart?

(a) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, you must be in compliance with the emission limitations, standards, and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction. After January 11, 2021, for each such source you must be in compliance with the emission limitations in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019, you must be in compliance with the emission limitations in this subpart at all times.

* * * * *

(c) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). For each such source, a startup, shutdown, and malfunction plan is not required after January 11, 2021. No startup, shutdown, and malfunction plan is required for any new or reconstructed source for which construction or reconstruction commenced after August 16, 2019.

(d) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After January 11, 2021for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 8. Section 63.7820 is amended by adding paragraph (e) to read as follows:

§ 63.7820 By what date must I conduct performance tests or other initial compliance demonstrations?

* * * * *

(e) Notwithstanding the deadlines in this section, existing and new affected sources must comply with the deadlines for making the initial compliance demonstrations for the mercury emission limit set forth in (e)(1) through (4) in this section.

(1) If you have an existing affected BOPF Group or a new or reconstructed affected source for which construction or reconstruction commenced on or before August 16, 2019, and you are demonstrating compliance with the emission limit in Table 1 through performance testing, you must conduct the initial performance test at your BOPF Group to demonstrate compliance with the mercury emission limit in Table 1 no later than July 13, 2021.

(2) If you have a new or reconstructed affected BOPF Group for which construction or reconstruction commenced after August 16, 2019, and you are demonstrating compliance with the emission limit in Table 1 through performance testing, you must conduct the initial performance test at your BOPF Group to demonstrate compliance with the mercury emission limit in Table 1 within 180 days of July 13, 2020 or within 180 days of initial startup of your affected source, whichever is later.

(3) If you have an existing affected BOPF Group or a new or reconstructed affected source for which construction or reconstruction commenced on or before August 16, 2019, and you are demonstrating compliance with the mercury emission limit in Table 1 through the requirements in § 63.7791(c) through (e), you must certify compliance in accordance with § 63.7840(f) in your notification of compliance and in accordance with § 63.7841(b)(11) in your first semiannual compliance report after July 13, 2021.

(4) If you have a new affected BOPF Group or a new or reconstructed affected source for which construction or reconstruction commenced after August 16, 2019, and you are demonstrating compliance with the mercury emission limit in Table 1 through the requirements in § 63.7791(b) through (d), you must certify compliance in accordance with § 63.7840(f) in your initial notification of compliance and in accordance with § 63.7841(b)(11) in your first semiannual compliance report after July 13, 2021 or after initial startup of your BOPF Group, whichever is later.

■ 9. Section 63.7821 is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 63.7821 When must I conduct subsequent performance tests?

(a) You must conduct subsequent performance tests to demonstrate compliance with all applicable emission and opacity limits in Table 1 to this subpart at the frequencies specified in paragraphs (b) through (e) of this section.

* * * * *

(e) For each BOPF Group, if demonstrating compliance with the mercury emission limit in Table 1 to this subpart through performance testing under §§ 63.7825 and 63.7833, you must conduct subsequent performance tests twice per permit cycle (*i.e.,* mid-term and initial/final) for sources with title V operating permits, and every 2.5 years for sources without a title V operating permit, at the outlet of the control devices for the BOPF Group.

■ 10. Section 63.7822 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 63.7822 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter?

(a) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, you must conduct each performance test that applies to your

affected source based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the conditions detailed in paragraphs (b) through (i) of this section. After January 11, 2021 for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019, you must conduct each performance test under conditions representative of normal operations. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) * * *

(1) Determine the concentration of particulate matter according to the following test methods:

(i) EPA Method 1 in appendix A–1 to part 60 of this chapter to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) EPA Method 2 or 2F in appendix A–1 to part 60 of this chapter or EPA Method 2G in appendix A–2 to part 60 of this chapter to determine the volumetric flow rate of the stack gas.

(iii) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter to determine the dry molecular weight of the stack gas. The manual procedures (but not instrumental procedures) of voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to EPA Method 3B.

(iv) EPA Method 4 in appendix A–3 to part 60 of this chapter to determine the moisture content of the stack gas.

(v) EPA Method 5 or 5D in appendix A–3 to part 60 of this chapter or EPA Method 17 in appendix A–6 to part 60 of this chapter, as applicable, to determine the concentration of particulate matter (front half filterable catch only).

* * * * *

■ 11. Section 63.7823 is amended by revising paragraphs (a), (c)(1), (d)(1)(i), (d)(2)(i), and (e)(1) and (3) to read as follows:

§ 63.7823 What test methods and other procedures must I use to demonstrate initial compliance with the opacity limits?

(a) You must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the conditions detailed in paragraphs (b) through (d) of this section. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(c) * * *

(1) Using a certified observer, determine the opacity of emissions according to EPA Method 9 in appendix A–4 to part 60 of this chapter. Alternatively, ASTM D7520–16, (incorporated by reference, see § 63.14) may be used with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(d) * * *

(1) * * *

(i) Using a certified observer, determine the opacity of emissions according to EPA Method 9 in appendix A–4 to part 60 of this chapter except as specified in paragraphs (d)(1)(ii) and (iii) of this section. Alternatively, ASTM D7520–16 (incorporated by reference, see § 63.14) may be used with the following conditions:

(A) During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(B) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(C) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(D) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification

plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.

(E) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(2) * * *

(i) Using a certified observer, determine the opacity of emissions according to EPA Method 9 in appendix A–4 to part 60 of this chapter. Alternatively, ASTM D7520–16 (incorporated by reference, see § 63.14) may be used with the following conditions:

(A) During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(B) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(C) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(D) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.

(E) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(e) * * *

(1) Using a certified observer, determine the opacity of emissions according to EPA Method 9 in appendix A–4 to part 60 of this chapter. Alternatively, ASTM D7520–16 (incorporated by reference, see § 63.14) may be used with the following conditions:

(i) During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(3) Make visible emission observations of uncovered portions of sinter plant coolers with the line of sight generally in the direction of the center of the cooler.

■ 12. Section 63.7824 is amended by revising paragraphs (e) introductory text and (e)(1) and (2) and the defined term "M_c" in Equation 1 in paragraph (e)(3) to read as follows:

§ 63.7824 What test methods and other procedures must I use to establish and demonstrate initial compliance with operating limits?

* * * * *

(e) To demonstrate initial compliance with the alternative operating limit for volatile organic compound emissions from the sinter plant windbox exhaust stream in § 63.7790(d)(2), follow the test methods and procedures in paragraphs (e)(1) through (5) of this section. You must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(1) Determine the volatile organic compound emissions according to the following test methods:

(i) EPA Method 1 in appendix A–1 to part 60 of this chapter to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) EPA Method 2 or 2F in appendix A–1 to part 60 of this chapter or EPA Method 2G in appendix A–2 to part 60 of this chapter to determine the volumetric flow rate of the stack gas.

(iii) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter to determine the dry molecular weight of the stack gas. The manual procedures (but not instrumental procedures) of voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to EPA Method 3B.

(iv) EPA Method 4 in appendix A–3 to part 60 of this chapter to determine the moisture content of the stack gas.

(v) EPA Method 25 in appendix A–7 to part 60 of this chapter to determine the mass concentration of volatile organic compound emissions (total gaseous nonmethane organics as carbon) from the sinter plant windbox exhaust stream stack.

(2) Determine volatile organic compound (VOC) emissions every 24 hours (from at least three samples taken at 8-hour intervals) using EPA Method 25 in appendix A–7 to part 60 of this chapter. Record the sampling date and time, sampling results, and sinter produced (tons/day).

(3) * * *

M_c = Average concentration of total gaseous nonmethane organics as carbon by EPA Method 25 in appendix A–7 to part 60 of this chapter, milligrams per dry standard cubic meters (mg/dscm) for each day;

* * * * *

§ § 63.7825 and 63.7826 [Redesignated as §§ 63.7826 and 63.7827]

■ 13. Sections 63.7825 and 63.7826 are redesignated as §§ 63.7826 and 63.7827, respectively, and a new § 63.7825 is added to read as follows:

§ 63.7825 What test methods and other procedures must I use to demonstrate initial compliance with the emission limit for mercury?

(a) If demonstrating compliance with the mercury emission limits for each BOPF Group in Table 1 to this subpart through performance testing, you must conduct a performance test to demonstrate initial compliance with the emission limit. If demonstrating compliance with the emission limit through performance testing, you must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the conditions detailed in paragraphs (b) through (f) of this section. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. Initial compliance tests must be conducted by the deadlines in § 63.7820(e).

(1) You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(2) For sources with multiple emission units ducted to a common control device and stack, compliance testing must be performed either by conducting a single compliance test with all affected emissions units in operation or by conducting a separate compliance test on each emissions unit. Alternatively, the owner or operator may request approval from the permit authority for an alternative testing approach. If the units are tested separately, any emissions unit that is not tested initially must be tested as soon as is practicable.

(b) To demonstrate compliance with the emission limit for mercury in Table 1 to this subpart through performance testing, follow the test methods and procedures in paragraphs (b)(1) and (2) of this section.

(1) Determine the concentration of mercury according to the following test methods:

(i) EPA Method 1 in appendix A–1 to part 60 of this chapter to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) EPA Method 2 or 2F in appendix A–1 to part 60 of this chapter or EPA Method 2G in appendix A–2 to part 60 of this chapter to determine the volumetric flow rate of the stack gas.

(iii) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter to determine the dry molecular weight of the stack gas. The manual procedures (but not instrumental procedures) of voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to EPA Method 3B.

(iv) EPA Method 4 in appendix A–3 to part 60 of this chapter to determine the moisture content of the stack gas.

(v) EPA Method 29 or 30B in appendix A–8 to part 60 of this chapter to determine the concentration of mercury from each unit of the BOPF Group exhaust stream stack. If performing measurements using EPA Method 29, you must collect a minimum sample volume of 1.7 dscm (60 dscf). Alternative test methods may be considered on a case-by-case basis per § 63.7(f).

(2) Three valid test runs are needed to comprise a performance test of each BOPF Group unit. If the performance testing results for any of the emission points yields a non-detect value, then the minimum detection limit (MDL) must be used to calculate the mass emissions (lb) for that emission unit and, in turn, for calculating the sum of the emissions (in units of pounds of mercury per ton of steel scrap) for all BOPF Group units subject to the emission standard for determining compliance. If the resulting mercury emissions are greater than the MACT emission standard, the owner or operator may use procedures that produce lower MDL results and repeat the mercury performance testing one additional time for any emission point for which the measured result was below the MDL. If this additional testing is performed, the results from that testing must be used to determine compliance (*i.e.,* there are no additional opportunities allowed to lower the MDL).

(3) For a primary emission control device applied to emissions from a BOPF with a closed hood system, sample only during the primary oxygen blow and do not sample during any subsequent reblows. Continue sampling for each run for an integral number of primary oxygen blows.

(4) For a primary emission control system applied to emissions from a BOPF with an open hood system and for a control device applied solely to secondary emissions from a BOPF, you must complete the requirements of paragraphs (b)(4)(i) and (ii) of this section:

(i) Sample only during the steel production cycle. Conduct sampling under conditions that are representative of normal operation. Record the start and end time of each steel production cycle and each period of abnormal operation; and

(ii) Sample for an integral number of steel production cycles. The steel production cycle begins when the scrap is charged to the furnace and ends 3 minutes after the slag is emptied from the vessel into the slag pot.

(5) For a control device applied to emissions from BOPF shop ancillary operations (hot metal transfer, skimming, desulfurization, or ladle metallurgy), sample only when the operation(s) is being conducted.

(c) Calculate the mercury mass emissions, based on the average of three test run values, for each BOPF Group unit (or combination of units that are ducted to a common stack and are tested when all affected sources are operating pursuant to paragraph (a) of this section) using Equation 1 of this section as follows:

$$E = \frac{C_s \times Q \times t}{454{,}000 \times 35.31} \quad \text{(Eq. 1)}$$

Where:

E = Mass emissions of mercury, pounds (lb);

C_s = Concentration of mercury in stack gas, mg/dscm;

454,000 = Conversion factor (mg/lb);

Q = Volumetric flow rate of stack gas, dscf/min;

35.31 = Conversion factor (dscf/dscm); and

t = Duration of test, minutes.

(d) You must install, calibrate, maintain, and operate an appropriate

weight measurement device, to measure the tons of steel scrap input to the BOPF cycle simultaneous with each BOPF Group unit's stack test.

(e) You must maintain the systems for measuring weight within ±5 percent accuracy. You must describe the specific equipment used to make measurements at your facility and how that equipment is periodically calibrated. You must also explain, document, and maintain written procedures for determining the accuracy of the measurements and make these written procedures available to your permitting authority upon request. You must determine, record, and maintain a record of the accuracy of the measuring systems before the beginning of your initial compliance test and during each subsequent quarter of affected source operation.

(f) Calculate the emissions from each new and existing affected source in pounds of mercury per ton of steel scrap to determine initial compliance with the mercury emission limit in Table 1. Sum the mercury mass emissions (in pounds) from all BOPF Group units calculated using Equation 1 of this section. Divide that sum by the sum of the total amount of steel scrap charged to the BOPFs (in tons).

■ 14. Section 63.7831 is amended by revising paragraphs (a)(4) through (6) and (f)(4) to read as follows:

§ 63.7831 What are the installation, operation, and maintenance requirements for my monitors?

(a) * * *

(4) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and (c)(7) and (8). After January 11, 2021 for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and (c)(7) and (8);

(5) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d). After January 11, 2021 for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d) except for the requirements related to startup, shutdown, and malfunction plans referenced in § 63.8(d)(3). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2);

(6) On or before January 11, 2021, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced on or before August 16, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c)(1) through (14), (e)(1), and (e)(2)(i). After January 11, 2021 for each such source, and after July 13, 2020 for new and reconstructed sources for which construction or reconstruction commenced after August 16, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c)(1) through (14), (e)(1), and (e)(2)(i);

* * * * *

(f) * * *

(4) Each system that works based on the triboelectric effect must be installed, operated, and maintained in a manner consistent with the guidance document, "Fabric Filter Bag Leak Detection Guidance," EPA–454/R–98–015 (incorporated by reference, see § 63.14). You may install, operate, and maintain other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations.

* * * * *

■ 15. Section 63.7833 is amended by revising paragraph (g)(3) and adding paragraphs (h) and (i) to read as follows:

§ 63.7833 How do I demonstrate continuous compliance with the emission limitations that apply to me?

* * * * *

(g) * * *

(3) For purposes of paragraphs (g)(1) and (2) of this section, in the case of an exceedance of the hourly average opacity operating limit for an electrostatic precipitator, measurements of the hourly average opacity based on visible emission observations in accordance with EPA Method 9 (in appendix A–4 to part 60) may be taken to evaluate the effectiveness of corrective action. ASTM D7520–16 (incorporated by reference, see § 63.14) may be used with the following conditions:

(i) During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(h) If you are demonstrating compliance with the mercury emission limits in Table 1 of this section for your BOPF Groups through performance testing, you must conduct mercury performance tests in accordance with §§ 63.7821(e) and 63.7825 and calculate

the emissions from each new and existing affected source in pounds of mercury per ton of steel scrap to determine compliance with the mercury emission limits in Table 1. Sum the mercury mass emissions (in pounds) from all BOPF Group units calculated using Equation 1 of § 63.7825. Divide that sum by the sum of the total amount of steel scrap charged to the BOPFs (in tons).

(i) If you are demonstrating compliance with the mercury emission limits in Table 1 of this section for your BOPF Groups by certifying participation in the NVMSRP or another EPA-approved mercury program, or by using scrap that does not contain mercury switches, you must obtain and certify your use of steel scrap per § 63.7791(c), (d), or (e), as applicable, and § 63.7841(b)(11) to demonstrate continuous compliance with the standard.

■ 16. Section 63.7835 is revised to read as follows:

§ 63.7835 What other requirements must I meet to demonstrate continuous compliance?

Except as provided in § 63.7833(g), you must report each instance in which you did not meet each emission limitation in § 63.7790 that applies to you. This includes periods of startup, shutdown, and malfunction. You also must report each instance in which you did not meet each operation and maintenance requirement in § 63.7800 that applies to you. These instances are deviations from the emission limitations and operation and maintenance requirements in this subpart. These deviations must be reported according to the requirements in § 63.7841.

(a) In the event that an affected unit fails to meet an applicable standard, record the date, time, and duration of each failure.

(b) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(c) Record actions taken to minimize emissions in accordance with § 63.7810(d), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(d) For existing sources and for new or reconstructed sources which commenced construction or reconstruction on or before August 16, 2019, before January 11, 2021, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e). After January 11, 2021 for such sources, and after July 13, 2020 for new and reconstructed sources which commence construction or reconstruction after August 16, 2019, the exemptions for periods of startup, shutdown, and malfunction in § 63.6(e) no longer apply.

■ 17. Section 63.7840 is amended by revising paragraphs (d), (e) introductory text, and (e)(2) and adding paragraphs (f) through (h) to read as follows:

§ 63.7840 What notifications must I submit and when?

* * * * *

(d) If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1). For the first mercury compliance test in the BOPF Group for anyone sequence of tests, you must include a schedule of all subsequent tests in the BOPF Group in the test series.

(e) If you are required to conduct a performance test, opacity observation, or other initial compliance demonstration, you must submit a notification of compliance according to § 63.9(h)(2)(ii), except that for the purposes of submitting the notification of compliance status for BOPF Group mercury testing, the performance test shall be considered complete when the final unit or control device in the BOPF Group in the sequence is tested.

* * * * *

(2) For each initial compliance demonstration that includes a performance test, you must submit the notification of compliance status, including the summary of performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(f) The notification of compliance status required by §§ 63.9(b) and (h) and 63.7826(c) must include each applicable certification of compliance, signed by a responsible official, in paragraphs (f)(1) and (2) of this section, regarding the mercury requirements, as applicable, in § 63.7791(c) through (e).

(1) "This facility participates in and purchases scrap only from scrap providers who participate in a program for removal of mercury switches that has been approved by the EPA Administrator, in accordance with § 63.7791(c) or (e)"; or

(2) "This facility complies with the requirements for scrap that does not contain mercury switches, in accordance with § 63.7791(d)."

(g) Within 60 calendar days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (g)(1) through (3) of this section. Where applicable, you may assert a claim of EPA system outage, in accordance with § 63.7841(e), or force majeure, in accordance with § 63.7841(f), for failure to timely comply with this requirement.

(1) Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test. Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on EPA's ERT website.

(2) Data collected using test methods that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the test. The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) Confidential business information (CBI). If you claim some of the information submitted under paragraph (g) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described in paragraph (g) of this section.

(h) Within 60 calendar days after the date of completing each continuous monitoring system (CMS) performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (h)(1) through (3) of this section. Where applicable, you may assert a claim of EPA system outage, in accordance with § 63.7841(e), or force majeure, in accordance with § 63.7841(f), for failure to timely comply with this requirement.

(1) Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by EPA's ERT as listed on EPA's ERT website at the time of the evaluation. Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through EPA's CDX. The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on EPA's ERT website.

(2) Performance evaluations of CMS measuring RATA pollutants that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the evaluation. The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) Confidential business information (CBI). If you claim some of the information submitted under this paragraph (h) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described in this paragraph (h).

■ 18. Section 63.7841 is amended by:

■ a. Revising paragraphs (b) introductory text, (b)(4), (b)(7) introductory text, (b)(7)(ii), (b)(8) introductory text, and (b)(8)(ii), (iv), and (vi);

■ b. Adding paragraphs (b)(9) through (13);

■ c. Revising paragraph (c);

■ d. Redesignating paragraph (d) as paragraph (g) and revising it; and

■ e. Adding new paragraph (d) and paragraphs (e) and (f).

The revisions and additions read as follows:

§ 63.7841 What reports must I submit and when?

* * * * *

(b) *Compliance report contents.* Each compliance report must include the information in paragraphs (b)(1) through (3) of this section and, as applicable, paragraphs (b)(4) through (13) of this section.

* * * * *

(4) For existing sources and for new or reconstructed sources for which construction or reconstruction commenced on or before August 16, 2019, before January 11, 2021, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). A startup, shutdown, and malfunction plan and the information in § 63.10(d)(5)(i) is not required after January 11, 2021.

* * * * *

(7) For each deviation from an emission limitation in § 63.7790 that occurs at an affected source where you are not using a continuous monitoring system (including a CPMS, COMS, or CEMS) to comply with an emission limitation in this subpart, the compliance report must contain the information in paragraphs (b)(1) through (4) of this section, the information in paragraphs (b)(7)(i) and (ii) of this section, and the information in (b)(13) of this section. This includes periods of startup, shutdown, and malfunction.

* * * * *

(ii) Information on the duration and cause of deviations (including unknown cause, if applicable) as applicable and the corrective action taken.

* * * * *

(8) For each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including a CPMS or COMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (b)(1) through (4) of this section, the information in paragraphs (b)(8)(i) through (xi) of this section, and the information in (b)(13) of this section. This includes periods of malfunction.

* * * * *

(ii) The date, time, and duration that each continuous monitoring was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(iv) The date and time that each deviation started and stopped, and whether each deviation occurred during a malfunction or during another period.

* * * * *

(vi) A breakdown of the total duration of the deviations during the reporting period including those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(9) Any deviation from the requirements in § 63.7791 and the corrective action taken. For each deviation, you must include the information in (b)(13) of this section.

(10) If there were no deviations from the requirements in § 63.7791, a statement that there were no deviations from the requirements during the reporting period.

(11) If the facility demonstrates compliance with the mercury emission limits in Table 1 through the compliance options in § 63.7791(c), (d), or (e), the report must contain the applicable statement in paragraphs (b)(11)(i) and (ii) of this section, as applicable.

(i) "This facility participates in and purchases scrap only from scrap providers who participate in a program for removal of mercury switches that has been approved by the EPA Administrator, in accordance with § 63.7791(c) or (e)"; or

(ii) "This facility complies with the requirements for scrap that does not contain mercury switches, in accordance with § 63.7791(d)."

(12) For existing sources and for new or reconstructed sources which commenced construction or reconstruction on or before August 16, 2019, before January 11, 2021, for each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section. An immediate startup, shutdown, and malfunction report is not required after January 11, 2021.

(13) Beginning on January 11, 2021 if you failed to meet an applicable standard, the compliance report must

include the start date, start time, and duration of each failure. For each failure, the compliance report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(c) *Use of CEDRI template.* Beginning on January 11, 2021 or 180 days after the date the reporting template becomes available in CEDRI, whichever is later, submit all subsequent reports following the procedure specified in paragraph (d) of this section.

(d) *CEDRI submission.* If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described earlier in this paragraph.

(e) *CDX outage.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (e)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(f) *Claim of force majeure.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (f)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

(g) *Part 70 monitoring report.* If you have obtained a title V operating permit for an affected source pursuant to part 70 or 71 of this chapter, you must report all deviations as defined in this subpart in the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A) of this chapter. If you submit a compliance report for an affected source along with, or as part of, the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A) of this chapter, and the compliance report includes all the required information concerning deviations from any emission limitation, standard, or operation and maintenance requirement in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements for an affected source to your permitting authority.

■ 19. Section 63.7842 is amended by:
■ a. Revising paragraph (a)(2);
■ b. Redesignating paragraph (a)(3) as paragraph (a)(5);
■ c. Adding new paragraph (a)(3) and paragraph (a)(4);
■ d. Revising paragraph (b)(3); and
■ e. Adding paragraph (e).

The revisions and additions read as follows:

§ 63.7842 What records must I keep?

(a) * * *

(2) For existing sources and for new or reconstructed sources which commenced construction or reconstruction on or before August 16, 2019, before January 11, 2021, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction for a period of five years. A

startup, shutdown, and malfunction plan is not required after January 11, 2021.

(3) For each failure to meet an applicable standard, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) Records of the actions taken to minimize emissions in accordance with § 63.7810(d), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(b) * * *

(3) Previous (that is, superseded) versions of the performance evaluation plan required under § 63.8(d)(2), with the program of corrective action included in the plan.

* * * * *

(e) If you are demonstrating compliance with the mercury emission limit in Table 1 through § 63.7791(c), you must keep records to demonstrate compliance with the requirements for mercury in § 63.7791(c) as applicable. If you are demonstrating compliance with the mercury emission limit in Table 1 through § 63.7791(d), you must keep records documenting compliance with § 63.7791(d) for scrap that does not contain mercury switches. If you are demonstrating compliance with the mercury emission limit in Table 1 through § 63.7791(e), you must maintain records identifying each scrap provider and documenting the scrap provider's participation in an approved mercury switch removal program. If you purchase scrap from a broker, you must maintain records identifying each broker and documentation that all scrap provided by the broker was obtained from other scrap providers who participate in an approved mercury switch removal program.

■ 20. Section 63.7851 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.7851 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to State, local, or tribal agencies are specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 21. Section 63.7852 is amended by:

■ a. Adding in alphabetical order a definition for "basic oxygen process furnace group";

■ b. Revising the definition of "deviation"; and

■ c. Adding in alphabetical order definitions for "mercury switch", "motor vehicle", "motor vehicle scrap", "opening", "post-consumer steel scrap", "pre-consumer steel scrap", "scrap provider", "shredded motor vehicle scrap", "specialty metal scrap", and "steel scrap".

The additions and revision read as follows:

§ 63.7852 What definitions apply to this subpart?

* * * * *

Basic oxygen process furnace group means the collection of BOPF shop steelmaking operating units and their control devices including the BOPF primary emission control system, BOPF secondary control system, ladle metallurgy units, and hot metal transfer, desulfurization and slag skimming units that are operating at the time of each mercury test sequence. In the case of duplicate units in the BOPF Group, the BOPF Group for purposes of this rule means only those units operating at the time of the test sequence. See related definitions in this section for "primary emissions," "primary emission control system," "secondary emissions," and "secondary emission control system."

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including operating limits), standard, or operation and maintenance requirement;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

* * * * *

Mercury switch means each mercury-containing capsule or switch assembly that is part of a convenience light switch mechanism installed in a motor vehicle.

Motor vehicle means an automotive vehicle not operated on rails and usually operated with rubber tires for use on roads and highways.

Motor vehicle scrap means post-consumer scrap from discarded automotive vehicles, in whole or in part, including automobile body hulks that have been processed through a shredder. Motor vehicle scrap does not include automobile manufacturing bundles or miscellaneous vehicle parts, such as wheels and bumpers, which do not contain mercury switches.

Opening means any roof monitor, vent, door, window, hole, crack or other conduit that allows gas to escape to the atmosphere from a blast furnace casthouse or BOPF shop.

Post-consumer steel scrap means steel scrap that is composed of materials made of steel that were purchased by households or by commercial, industrial, and institutional facilities in their role as end-users of the product and which can no longer be used for its intended purpose.

Pre-consumer steel scrap means steel scrap that is left over from industrial or manufacturing processes and which is subsequently recycled as scrap. Other terms used to describe this scrap are new, home, run-around, prompt-industrial, and return scrap.

* * * * *

Scrap provider means the company or person (including a broker) who contracts directly with an integrated iron and steel manufacturing facility to provide steel scrap. Scrap processors, such as shredder operators or vehicle dismantlers, who do not sell scrap directly to an integrated iron and steel manufacturing facility are not scrap providers.

* * * * *

Shredded motor vehicle scrap means post-consumer scrap from discarded automotive vehicles that has been processed through a shredder.

* * * * *

Specialty metal scrap means scrap where the only materials from motor vehicles in the scrap are materials (such as certain exhaust systems) recovered for their specialty alloy content (including, but not limited to, chromium, nickel, molybdenum, or other alloys), and, based on the nature of the scrap and purchase specifications, the scrap is not expected to contain mercury switches.

* * * * *

Steel scrap means pre-consumer and post-consumer discarded steel that is processed by scrap providers for resale (post-consumer) or used on-site (pre-consumer or run-around scrap from within a facility or company). Post-consumer steel scrap may or may not

contain motor vehicle scrap, depending on the type of scrap.

* * * * *

■ 22. Table 1 to Subpart FFFFF of Part 63 is revised to read as follows:

As required in § 63.7790(a), you must comply with each applicable emission and opacity limit in the following table:

TABLE 1 TO SUBPART FFFFF OF PART 63—EMISSION AND OPACITY LIMITS

For . . .	You must comply with each of the following . . .
1. Each windbox exhaust stream at an existing sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.4 lb/ton of product sinter.
2. Each windbox exhaust stream at a new sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.3 lb/ton of product sinter.
3. Each discharge end at an existing sinter plant.	a. You must not cause to be discharged to the atmosphere any gases that exit from one or more control devices that contain, on a flow-weighted basis, particulate matter in excess of 0.02 gr/dscf [1] [2]; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the building or structure housing the discharge end that exhibit opacity greater than 20 percent (6-minute average).
4. Each discharge end at a new sinter plant.	a. You must not cause to be discharged to the atmosphere any gases that exit from one or more control devices that contain, on a flow weighted basis, particulate matter in excess of 0.01 gr/dscf; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the building or structure housing the discharge end that exhibit opacity greater than 10 percent (6-minute average).
5. Each sinter cooler at an existing sinter plant.	You must not cause to be discharged to the atmosphere any emissions that exhibit opacity greater than 10 percent (6-minute average).
6. Each sinter cooler at a new sinter plant.	You must not cause to be discharged to the atmosphere any gases that contain particulate matter in excess of 0.01 gr/dscf.
7. Each casthouse at an existing blast furnace.	a. You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf [2]; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit all openings in the casthouse or structure housing the blast furnace that exhibit opacity greater than 20 percent (6-minute average).
8. Each casthouse at a new blast furnace.	a. You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.003 gr/dscf; and b. You must not cause to be discharged to the atmosphere any secondary emissions that exit all openings in the casthouse or structure housing the blast furnace that exhibit opacity greater than 15 percent (6-minute average).
9. Each BOPF at a new or existing shop.	a. You must not cause to be discharged to the atmosphere any gases that exit from a primary emission control system for a BOPF with a closed hood system at a new or existing BOPF shop that contain, on a flow-weighted basis, particulate matter in excess of 0.03 gr/dscf during the primary oxygen blow [2] [3]; and b. You must not cause to be discharged to the atmosphere any gases that exit from a primary emission control system for a BOPF with an open hood system that contain, on a flow-weighted basis, particulate matter in excess of 0.02 gr/dscf during the steel production cycle for an existing BOPF shop [2] [3] or 0.01 gr/dscf during the steel production cycle for a new BOPF shop [3]; and c. You must not cause to be discharged to the atmosphere any gases that exit from a control device used solely for the collection of secondary emissions from the BOPF that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop [2] or 0.0052 gr/dscf for a new BOPF shop.
10. Each hot metal transfer, skimming, and desulfurization operation at a new or existing BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop [2] or 0.003 gr/dscf for a new BOPF shop.
11. Each ladle metallurgy operation at a new or existing BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from a control device that contain particulate matter in excess of 0.01 gr/dscf for an existing BOPF shop [2] or 0.004 gr/dscf for a new BOPF shop.
12. Each existing BOPF shop.	You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or any other building housing the BOPF or BOPF shop operation that exhibit opacity greater than 20 percent (3-minute average).
13. Each new BOPF shop ...	a. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or other building housing a bottom-blown BOPF or BOPF shop operations that exhibit opacity (for any set of 6-minute averages) greater than 10 percent, except that one 6-minute period not to exceed 20 percent may occur once per steel production cycle; or b. You must not cause to be discharged to the atmosphere any secondary emissions that exit any opening in the BOPF shop or other building housing a top-blown BOPF or BOPF shop operations that exhibit opacity (for any set of 3-minute averages) greater than 10 percent, except that one 3-minute period greater than 10 percent but less than 20 percent may occur once per steel production cycle.
14. Each BOPF Group at an existing BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from the collection of BOPF Group control devices that contain mercury in excess of 0.00026 lb/ton of steel scrap input to the BOPF.
15. Each BOPF Group at a new BOPF shop.	You must not cause to be discharged to the atmosphere any gases that exit from the collection of BOPF Group control devices that contain mercury in excess of 0.000081 lb/ton of steel scrap input to the BOPF.

[1] This limit applies if the cooler is vented to the same control device as the discharge end.

[2] This concentration limit (gr/dscf) for a control device does not apply to discharges inside a building or structure housing the discharge end at an existing sinter plant, inside a casthouse at an existing blast furnace, or inside an existing BOPF shop if the control device was installed before August 30, 2005.

[3] This limit applies to control devices operated in parallel for a single BOPF during the oxygen blow.

■ 23. Table 2 to Subpart FFFFF of Part 63 is revised to read as follows:

As required in § 63.7826(a)(1), you must demonstrate initial compliance with the emission and opacity limits according to the following table:

TABLE 2 TO SUBPART FFFFF OF PART 63—INITIAL COMPLIANCE WITH EMISSION AND OPACITY LIMITS

For . . .	You have demonstrated initial compliance if . . .
1. Each windbox exhaust stream at an existing sinter plant.	The process-weighted mass rate of particulate matter from a windbox exhaust stream, measured according to the performance test procedures in § 63.7822(c), did not exceed 0.4 lb/ton of product sinter.
2. Each windbox exhaust stream at a new sinter plant.	The process-weighted mass rate of particulate matter from a windbox exhaust stream, measured according to the performance test procedures in § 63.7822(c), did not exceed 0.3 lb/ton of product sinter.
3. Each discharge end at an existing sinter plant.	a. The flow-weighted average concentration of particulate matter from one or more control devices applied to emissions from a discharge end, measured according to the performance test procedures in § 63.7822(d), did not exceed 0.02 gr/dscf; and b. The opacity of secondary emissions from each discharge end, determined according to the performance test procedures in § 63.7823(c), did not exceed 20 percent (6-minute average).
4. Each discharge end at a new sinter plant.	a. The flow-weighted average concentration of particulate matter from one or more control devices applied to emissions from a discharge end, measured according to the performance test procedures in § 63.7822(d), did not exceed 0.01 gr/dscf; and b. The opacity of secondary emissions from each discharge end, determined according to the performance test procedures in § 63.7823(c), did not exceed 10 percent (6-minute average).
5. Each sinter cooler at an existing sinter plant.	The opacity of emissions, determined according to the performance test procedures in § 63.7823(e), did not exceed 10 percent (6-minute average).
6. Each sinter cooler at a new sinter plant.	The average concentration of particulate matter, measured according to the performance test procedures in § 63.7822(b), did not exceed 0.01 gr/dscf.
7. Each casthouse at an existing blast furnace.	a. The average concentration of particulate matter from a control device applied to emissions from a casthouse, measured according to the performance test procedures in § 63.7822(e), did not exceed 0.01 gr/dscf; and b. The opacity of secondary emissions from each casthouse, determined according to the performance test procedures in § 63.7823(c), did not exceed 20 percent (6-minute average).
8. Each casthouse at a new blast furnace.	a. The average concentration of particulate matter from a control device applied to emissions from a casthouse, measured according to the performance test procedures in § 63.7822(e), did not exceed 0.003 gr/dscf; and b. The opacity of secondary emissions from each casthouse, determined according to the performance test procedures in § 63.7823(c), did not exceed 15 percent (6-minute average).
9. Each BOPF at a new or existing BOPF shop.	a. The average concentration of particulate matter from a primary emission control system applied to emissions from a BOPF with a closed hood system, measured according to the performance test procedures in § 63.7822(f), did not exceed 0.03 gr/dscf for a new or existing BOPF shop; b. The average concentration of particulate matter from a primary emission control system applied to emissions from a BOPF with an open hood system, measured according to the performance test procedures in § 63.7822(g), did not exceed 0.02 gr/dscf for an existing BOPF shop or 0.01 gr/dscf for a new BOPF shop; and c. The average concentration of particulate matter from a control device applied solely to secondary emissions from a BOPF, measured according to the performance test procedures in § 63.7822(g), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.0052 gr/dscf for a new BOPF shop.
10. Each hot metal transfer skimming, and desulfurization at a new or existing BOPF shop.	The average concentration of particulate matter from a control device applied to emissions from hot metal transfer, skimming, or desulfurization, measured according to the performance test procedures in § 63.7822(h), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.003 gr/dscf for a new BOPF shop.
11. Each ladle metallurgy operation at a new or existing BOPF shop.	The average concentration of particulate matter from a control device applied to emissions from a ladle metallurgy operation, measured according to the performance test procedures in § 63.7822(h), did not exceed 0.01 gr/dscf for an existing BOPF shop or 0.004 gr/dscf for a new BOPF shop.
12. Each existing BOPF shop.	The opacity of secondary emissions from each BOPF shop, determined according to the performance test procedures in § 63.7823(d), did not exceed 20 percent (3-minute average).
13. Each new BOPF shop ...	a. The opacity of the highest set of 6-minute averages from each BOPF shop housing a bottom-blown BOPF, determined according to the performance test procedures in § 63.7823(d), did not exceed 20 percent and the second highest set of 6-minute averages did not exceed 10 percent; or b. The opacity of the highest set of 3-minute averages from each BOPF shop housing a top-blown BOPF, determined according to the performance test procedures in § 63.7823(d), did not exceed 20 percent and the second highest set of 3-minute averages did not exceed 10 percent.
14. Each BOPF Group at an existing BOPF shop.	If demonstrating compliance through performance testing, the average emissions of mercury from the collection of BOPF Group control devices applied to the emissions from the BOPF Group, measured according to the performance test procedures in § 63.7825, did not exceed 0.00026 lb/ton steel scrap input to the BOPF.
15. Each BOPF Group at a new BOPF shop.	If demonstrating compliance through performance testing, the average emissions of mercury from the collection of BOPF Group control devices applied to the emissions from the BOPF Group, measured according to the performance test procedures in § 63.7825, did not exceed 0.000081 lb/ton steel scrap input to the BOPF.

■ 24. Table 3 to Subpart FFFFF of Part 63 is revised to read as follows:

As required in § 63.7833(a), you must demonstrate continuous compliance with the emission and opacity limits according to the following table:

TABLE 3 TO SUBPART FFFFF OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION AND OPACITY LIMITS

For . . .	You must demonstrate continuous compliance by . . .
1. Each windbox exhaust stream at an existing sinter plant.	a. Maintaining emissions of particulate matter at or below 0.4 lb/ton of product sinter; and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
2. Each windbox exhaust stream at a new sinter plant.	a. Maintaining emissions of particulate matter at or below 0.3 lb/ton of product sinter; and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
3. Each discharge end at an existing sinter plant.	a. Maintaining emissions of particulate matter from one or more control devices at or below 0.02 gr/dscf; and b. Maintaining the opacity of secondary emissions that exit any opening in the building or structure housing the discharge end at or below 20 percent (6-minute average); and c. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
4. Each discharge end at a new sinter plant.	a. Maintaining emissions of particulate matter from one or more control devices at or below 0.01 gr/dscf; and b. Maintaining the opacity of secondary emissions that exit any opening in the building or structure housing the discharge end at or below 10 percent (6-minute average); and c. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
5. Each sinter cooler at an existing sinter plant.	a. Maintaining the opacity of emissions that exit any sinter cooler at or below 10 percent (6-minute average); and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
6. Each sinter cooler at a new sinter plant.	a. Maintaining emissions of particulate matter at or below 0.1 gr/dscf; and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
7. Each casthouse at an existing blast furnace.	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf; and b. Maintaining the opacity of secondary emissions that exit all openings in the casthouse or structure housing the casthouse at or below 20 percent (6-minute average); and c. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
8. Each casthouse at a new blast furnace.	a. Maintaining emissions of particulate matter from a control device at or below 0.003 gr/dscf; and b. Maintaining the opacity of secondary emissions that exit all openings in the casthouse or structure housing the casthouse at or below 15 percent (6-minute average); and c. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
9. Each BOPF at a new or existing BOPF shop.	a. Maintaining emissions of particulate matter from the primary control system for a BOPF with a closed hood system at or below 0.03 gr/dscf; and b. Maintaining emissions of particulate matter from the primary control system for a BOPF with an open hood system at or below 0.02 gr/dscf for an existing BOPF shop or 0.01 gr/dscf for a new BOPF shop; and c. Maintaining emissions of particulate matter from a control device applied solely to secondary emissions from a BOPF at or below 0.01 gr/dscf for an existing BOPF shop or 0.0052 gr/dscf for a new BOPF shop; and d. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
10. Each hot metal transfer, skimming, and desulfurization operation at a new or existing BOPF shop.	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf at an existing BOPF or 0.003 gr/dscf for a new BOPF; and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
11. Each ladle metallurgy operation at a new or existing BOPF shop.	a. Maintaining emissions of particulate matter from a control device at or below 0.01 gr/dscf at an existing BOPF shop or 0.004 gr/dscf for a new BOPF shop; and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
12. Each existing BOPF shop.	a. Maintaining the opacity of secondary emissions that exit any opening in the BOPF shop or other building housing the BOPF shop or shop operation at or below 20 percent (3-minute average); and b. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
13. Each new BOPF shop ...	a. Maintaining the opacity (for any set of 6-minute averages) of secondary emissions that exit any opening in the BOPF shop or other building housing a bottom-blown BOPF or shop operation at or below 10 percent, except that one 6-minute period greater than 10 percent but no more than 20 percent may occur once per steel production cycle; and b. Maintaining the opacity (for any set of 3-minute averages) of secondary emissions that exit any opening in the BOPF shop or other building housing a top-blown BOPF or shop operation at or below 10 percent, except that one 3-minute period greater than 10 percent but less than 20 percent may occur once per steel production cycle; and c. Conducting subsequent performance tests at the frequencies specified in § 63.7821.
14. Each BOPF Group at an existing BOPF shop.	a. Maintaining emissions of mercury from the collection of BOPF Group control devices at or below 0.00026 lb/ton steel scrap input to the BOPF; and b. If demonstrating compliance through performance testing, conducting subsequent performance tests at the frequencies specified in § 63.7821; and c. If demonstrating compliance through § 63.7791(c), (d), or (e), maintaining records pursuant to § 63.7842(e).
15. Each BOPF Group at a new BOPF shop.	a. Maintaining emissions of mercury from the collection of BOPF Group control devices at or below 0.000081 lb/ton steel scrap input to the BOPF; and b. If demonstrating compliance through performance testing, conducting subsequent performance tests at the frequencies specified in § 63.7821; and

TABLE 3 TO SUBPART FFFFF OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION AND OPACITY LIMITS—Continued

For . . .	You must demonstrate continuous compliance by . . .
	c. If demonstrating compliance through § 63.7791(c), (d), or (e), maintaining records pursuant to § 63.7842(e).

■ 25. Table 4 to Subpart FFFFF of Part 63 is revised to read as follows:

As required in § 63.7850, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table:

TABLE 4 TO SUBPART FFFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFF

Citation	Subject	Applies to Subpart FFFFF	Explanation
§ 63.1	Applicability	Yes	
§ 63.2	Definitions	Yes	
§ 63.3	Units and Abbreviations	Yes	
§ 63.4	Prohibited Activities	Yes	
§ 63.5	Construction/Reconstruction	Yes	
§ 63.6(a), (b), (c), (d), (e)(1)(iii), (f)(2)–(3), (g), (h)(2)(ii)–(h)(9).	Compliance with Standards and Maintenance Requirements.	Yes	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7810(d) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes, on or before January 11, 2021 and No thereafter.	
§ 63.6(e)(3)	SSM Plan Requirements	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7810(c)
§ 63.6(f)(1)	Compliance except during SSM	No	See § 63.7810(a).
§ 63.6(h)(1)	Compliance except during SSM	No	See § 63.7810(a).
§ 63.6(h)(2)(i)	Determining Compliance with Opacity and VE Standards.	No	Subpart FFFFF specifies methods and procedures for determining compliance with opacity emission and operating limits.
§ 63.6(i)	Extension of Compliance with Emission Standards.	Yes	
§ 63.6(j)	Exemption from Compliance with Emission Standards.	Yes	
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates.	No	Subpart FFFFF and specifies performance test applicability and dates.
§ 63.7(a)(3), (b)–(d), (e)(2)–(4), (f)–(h).	Performance Testing Requirements.	Yes	
§ 63.7(e)(1)	Performance Testing	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See §§ 63.7822(a), 63.7823(a), and 63.7825(a).
§ 63.8(a)(1)–(3), (b), (c)(1)(ii), (c)(2)–(3), (c)(4)(i)–(ii), (c)(5)–(6), (c)(7)–(8), (d)(1)–(2), (e), (f)(1)–(5), (g)(1)–(4).	Monitoring Requirements	Yes	CMS requirements in § 63.8(c)(4)(i)–(ii), (c)(5)–(6), (d)(1)–(2), and (e) apply only to COMS.
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Subpart FFFFF does not require flares.

TABLE 4 TO SUBPART FFFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFF—Continued

Citation	Subject	Applies to Subpart FFFFF	Explanation
§ 63.8(c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	
§ 63.8(c)(4)	Continuous Monitoring System Requirements.	No	Subpart FFFFF specifies requirements for operation of CMS.
§ 63.8(d)(3)	Written procedures for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7842(b)(3).
§ 63.8(f)(6)	RATA Alternative	No	
§ 63.8(g)(5)	Data Reduction	No	Subpart FFFFF specifies data reduction requirements.
§ 63.9	Notification Requirements	Yes	Additional notifications for CMS in § 63.9(g) apply only to COMS.
§ 63.10(a), (b)(1), (b)(2)(x), (b)(2)(xiv), (b)(3), (c)(1)–(6), (c)(9)–(14), (d)(1)–(4), (e)(1)–(2), (e)(4), (f).	Recordkeeping and Reporting Requirements.	Yes	Additional records for CMS in § 63.10(c)(1)–(6), (9)–(14), and reports in § 63.10(d)(1)–(2) apply only to COMS.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7842(a)(2)–(4) for recordkeeping of (1) date, time, and duration of failure to meet the standard; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes	
§ 63.10(b)(2)(iv)	Actions Taken to Minimize Emissions During SSM.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7842(a)(4) for records of actions taken to minimize emissions.
§ 63.10(b)(2)(v)	Actions Taken to Minimize Emissions During SSM.	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7842(a)(4) for records of actions taken to minimize emissions.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS Malfunctions.	Yes	
§ 63.10(b)(2)(vii)–(ix)	Other CMS Requirements	Yes	
§ 63.10(b)(2)(xiii)	CMS Records for RATA Alternative.	No	

TABLE 4 TO SUBPART FFFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFF—Continued

Citation	Subject	Applies to Subpart FFFFF	Explanation
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart FFFFF specifies record requirements; see § 63.7842.
§ 63.10(c)(15)	Use of SSM Plan	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	
§ 63.10(d)(5)(i)	Periodic SSM Reports	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	See § 63.7841(b)(4) for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports	No, for new or reconstructed sources which commenced construction or reconstruction after August 16, 2019. For all other affected sources, Yes on or before January 11, 2021 and No thereafter.	
§ 63.10(e)(3)	Excess Emission Reports	No	Subpart FFFFF specifies reporting requirements; see § 63.7841.
§ 63.11	Control Device Requirements	No	Subpart FFFFF does not require flares.
§ 63.12	State Authority and Delegations	Yes	
§ 63.13–§ 63.16	Addresses, Incorporations by Reference, Availability of Information and Confidentiality, Performance Track Provisions.	Yes	

[FR Doc. 2020–09753 Filed 7–10–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0373; FRL–10010–46–OAR]

RIN 2060–AT30

National Emission Standards for Hazardous Air Pollutants: Iron and Steel Foundries Major Source Residual Risk and Technology Review and Area Source Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the major source Iron and Steel Foundries source category and the technology review for the area source Iron and Steel Foundries source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action to remove exemptions for periods of startup, shutdown, and malfunction (SSM) and to specify that emissions standards apply at all times. These final amendments also require electronic reporting of performance test results and compliance reports and make minor corrections and clarifications to a few other rule provisions for major sources and area sources.

DATES: This final rule is effective on September 10, 2020. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 2, 2008.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0373. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Phil Mulrine, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5289; fax number: (919) 541–4991; and email address: *mulrine.phil@epa.gov.* For specific information regarding the risk modeling methodology, contact Ted Palma, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5470; fax number: (919) 541–0840; and email address: *palma.ted@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Maria Malave, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ATSDR Agency for Toxic Substances and Disease Registry
CAA Clean Air Act
CalEPA California EPA
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CRA Congressional Review Act
e.g. exempli gratia (for example)
EPA Environmental Protection Agency
FQPA Food Quality Protection Act
GACT generally available control technology
HAP hazardous air pollutant(s)
HQ hazard quotient
i.e. id est (that is)
IRIS Integrated Risk Information System
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
MOA mode of action
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
O&M operation and maintenance
OEHHA (California EPA) Office of Environmental Health Hazard Assessment
OMB Office of Management and Budget
PM particulate matter
ppmv parts per million by volume
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
UF uncertainty factor
UMRA Unfunded Mandates Reform Act
VOHAP volatile organic hazardous air pollutant(s)

Background information. On October 9, 2019 (84 FR 54394), the EPA proposed decisions related to the major source Iron and Steel Foundries NESHAP based on our RTR and the area source Iron and Steel Foundries NESHAP based on our technology review. In this action, we are finalizing those decisions and other revisions to the rules. We summarize some of the more significant comments we timely received regarding the proposed rules and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *National Emission Standards for Hazardous Air Pollutants: Iron and Steel Foundries Major Source Residual Risk and Technology Review and Area Source Technology Review—Final Rule—Summary of Public Comments and Responses,* which is available in the docket (Docket ID No. EPA–HQ–OAR–2019–0373). A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What are the Iron and Steel Foundries source categories and how do the NESHAP regulate HAP emissions from the source categories?
C. What changes did we propose for the Iron and Steel Foundries source categories in our October 9, 2019, proposal?

III. What is included in these final rules?
A. What are the final rule amendments based on the risk review for the major source Iron and Steel Foundries source category?
B. What are the final rule amendments based on the technology review for the Iron and Steel Foundries source categories?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the Iron and Steel Foundries source categories?
A. Residual Risk Review for the Major Source Iron and Steel Foundries Source Category
B. Technology Review for the Iron and Steel Foundries Source Categories
C. Removal of the SSM Exemptions
D. Electronic Reporting
E. Technical and Editorial Corrections
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS[1] code
Iron and Steel Foundries	40 CFR part 63, subpart EEEEE	331511
	40 CFR part 63, subpart ZZZZZ	331512
		331513

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/iron-and-steel-foundries-national-emissions-standards-hazardous-air* and *https://www.epa.gov/stationary-sources-air-pollution/iron-and-steel-foundries-national-emission-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by November 9, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major

sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

In the second stage of the NESHAP regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, which is applicable to both MACT and GACT standards, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, which is limited to the MACT standards, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based MACT standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 54394.

B. What are the Iron and Steel Foundries source categories and how do the NESHAP regulate HAP emissions from these source categories?

The EPA promulgated the MACT standards for major source iron and steel foundries on April 22, 2004 (69 FR 21906). The standards are codified at 40 CFR part 63, subpart EEEEE. The EPA promulgated GACT standards for area source iron and steel foundries on January 2, 2008, under 40 CFR part 63, subpart ZZZZZ (73 FR 252). Iron and steel foundries manufacture metal castings by melting iron and/or steel in a furnace, pouring the molten iron or steel into a mold of a desired shape, allowing the casting to cool (solidify) in the mold, removing the casting from the mold, and finishing (grinding and cleaning) the final cast product. There are approximately 45 major source iron and steel foundries in the United States and approximately 390 area source foundries.

The MACT standards for major source iron and steel foundries established the following: Particulate matter (PM) emission limits (as a surrogate for metal HAP) and alternative metal HAP emission limits for metal melting furnaces; triethylamine emission limits from phenolic urethane cold box mold and core making operations; and organic HAP emission limits for new and existing cupola melting furnaces and scrap preheaters and for new automated cooling and shakeout lines. The MACT standards also included work practice standards prohibiting methanol to be used as a specific component of furan (also known as furfuryl alcohol) warm box mold and core making lines and instituting scrap selection and inspection requirements to limit the amount of mercury, lead, chlorinated plastics, and free liquids present in the scrap fed to metal melting furnaces. For other ancillary sources at the foundry, such as casting finishing, the MACT standards include a building opacity limit.

The GACT standards for area source iron and steel foundries established PM emission limits (as a surrogate for metal HAP) and alternative metal HAP emission limits for metal melting furnaces at ''large'' foundries.[2] The GACT standards for metal melting furnaces at area source foundries are less stringent than the MACT standards for major source foundries and include an allowance to use emissions averaging. Small and large area source iron and steel foundries are required to operate according to scrap selection and inspection requirements to limit the amount of mercury, lead, chlorinated plastics, and free liquids present in the scrap fed to metal melting furnaces and to operate furan warm box mold and core making lines without the use of methanol as a component of the catalyst formulation.

C. What changes did we propose for the Iron and Steel Foundries source categories in our October 9, 2019, proposal?

On October 9, 2019, the EPA published a proposed rule in the **Federal Register** (84 FR 54394) for the Iron and Steel Foundries NESHAP for both major and area sources, 40 CFR part 63, subparts EEEEE and ZZZZZ, that took into consideration the RTR analyses for major sources and the technology review for area sources. In the proposed rule, we proposed that the health risks due to HAP emissions from major source iron and steel foundries

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

[2] Existing area source foundries with annual metal melt production exceeding 20,000 tons and new area source foundries with annual metal melt capacity exceeding 10,000 tons are defined as ''large'' foundries; area source foundries at or below these metal melt rates are defined as ''small'' foundries.

are acceptable and that the Iron and Steel Foundries major source NESHAP (40 CFR part 63, subpart EEEEE) provides an ample margin of safety to protect public health and that additional standards are not necessary to prevent an adverse environmental effect. We also proposed that no revisions to the Iron and Steel Foundries major source or area source NESHAP are necessary based on our technology review. We proposed revisions to the SSM provisions of both NESHAP in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). We proposed revisions to the recordkeeping and reporting requirements of both NESHAP to require the use of electronic reporting of performance test reports and semiannual reports. We also proposed to correct a section reference error in the major source NESHAP (40 CFR part 63, subpart EEEEE) and to correct several section reference errors and make other minor editorial revisions to the area source NESHAP (40 CFR part 63, subpart ZZZZZ). For additional information regarding the proposed rule, see the October 9, 2019, proposal (84 FR 54394).

III. What is included in these final rules?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Iron and Steel Foundries major source category and the CAA technology review provisions for the Iron and Steel Foundries area source category. This action also finalizes other changes to the NESHAP, including proposed revisions to SSM requirements, electronic reporting requirements, and editorial corrections. This action also reflects several changes to the October 2019 proposal in consideration of comments received during the public comment period described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the major source Iron and Steel Foundries source category?

The EPA proposed no changes to Iron and Steel Foundries major source NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from the Iron and Steel Foundries source category are acceptable, the standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not making any revisions to the existing standards under CAA section 112(f), and we are readopting the existing standards. Further information regarding these decisions are provided in section IV of this preamble.

B. What are the final rule amendments based on the technology review for the Iron and Steel Foundries source categories?

We determined that there are no developments in practices, processes, and control technologies that necessitate revisions to the MACT or GACT standards for these source categories. Therefore, we are not finalizing revisions to the MACT or GACT standards under CAA section 112(d)(6). The analyses and rationale for these decisions are described in section IV of this preamble.

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing amendments to the major source and area source Iron and Steel Foundries NESHAP to remove and revise provisions related to SSM consistent with what we proposed (84 FR 54415) except for the volatile organic HAP (VOHAP) standards during startup and shutdown for cupola melting furnaces at major source iron and steel foundries.[3] With regard to cupola furnaces VOHAP standards, we are removing the SSM exemptions consistent with what we proposed, however, with regard to the VOHAP emissions standards, we are finalizing work practice standards for VOHAP emissions for periods of startup and shutdown based on consideration of public comments instead of applying numeric emissions limits during these periods, as described in more detail below.

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As explained in section IV.D.1 of the October 2019 proposal preamble (84 FR 54415, October 9, 2019), the EPA proposed that the Iron and Steel Foundries NESHAP would require that the standards apply at all times, consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). Except for cupola melting furnace VOHAP emission limits, the EPA is finalizing the SSM provisions as proposed without setting a separate standard for startup and shutdown as discussed in the October 2019 proposal (84 FR 54415).

For VOHAP emissions from cupola melting furnaces, the EPA is finalizing separate standards during periods of cupola startup and shutdown to address public comments received on the proposed rule. Specifically, the EPA is finalizing amendments to the 20 ppmv VOHAP emission limit to apply only during normal production operations (*e.g.,* when furnace is actively producing molten metal), or more specifically, what the major source NESHAP refers to as "on blast" conditions as defined in the rule. With regard to cupola furnace startup and shutdown periods, which are considered part of the "off blast" conditions in the major source NESHAP, the EPA is finalizing work practice standards that require compliance with the building opacity limit during initial cupola startup procedures (*e.g.,* refractory curing, cupola bed preparation, and beginning stage of cupola coke bed preparation) and final shutdown procedures (*e.g.,* cooling and cupola banking or bottom drop). For other startup, shutdown, and idling periods, the EPA is finalizing work practice standards requiring that owners/operators (1) begin operating the cupola afterburner or other thermal combustion device as soon as practicable after beginning the coke bed preparatory step but no later than 30 minutes after the blast air is started to begin the coke bed burn-in and (2) operate the afterburner or other thermal combustion device with a flame present at all times during other off blast periods. Furthermore, we are requiring facilities to operate according to procedures to minimize emissions and ensure safety during all of these periods as specified in the operation and maintenance (O&M) plan. We are finalizing new definitions of "cupola startup" and "cupola shutdown" to

[3] The 20 parts per million by volume (ppmv) VOHAP emission limit for cupola melting furnaces applies only to major source iron and steel foundries (40 CFR part 63, subpart EEEEE). The area source NESHAP only regulates metal HAP emissions from melting furnaces so the SSM revisions for 40 CFR part 63, subpart ZZZZZ, are being finalized as proposed without exception.

clarify when these work practice standards apply and adding recordkeeping requirements for facilities to demonstrate compliance with the new work practice standards. We also added monitoring and recordkeeping requirements for foundry owners or operators to demonstrate compliance with the new work practice standards. More detail regarding these revisions from the proposal are provided in section IV.C of this preamble.

Further, the EPA is not finalizing separate standards for malfunctions. We are finalizing provisions in the final rule consistent with our proposal with regard to malfunctions (see 84 FR 54415). As discussed in the October 2019 proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For this action, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.D.1 of the proposal preamble for further discussion of the EPA's rationale for the decision not to set separate standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, we are finalizing revisions to the General Provisions table to 40 CFR part 63, subparts EEEEE and ZZZZZ, to eliminate requirements that include rule language providing exemptions for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise the Deviation Notification Report and related records as they relate to malfunctions, as described below. As discussed in the October 2019 proposal preamble, these revisions are consistent with the requirement that the standards apply at all times. Refer to sections III.D.1 through 5 of the October 2019 proposal preamble for a detailed discussion of these amendments (see 84 FR 54415).

D. What other changes have been made to the NESHAP?

The EPA is requiring owners or operators of iron and steel foundries to submit electronic copies of certain required performance test reports, performance evaluation reports, and semiannual reports through the EPA's Central Data Exchange using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that performance test results and performance evaluation results be submitted using the Electronic Reporting Tool. For semiannual reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the templates for these reports are located on the CEDRI website.[4]

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA and the public. For a more thorough discussion of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2019–0373.

E. What are the effective and compliance dates of the standards?

We proposed that all of the SSM revisions would become effective upon promulgation. The SSM revisions to the area source NESHAP being promulgated in this action are effective on September 10, 2020, as proposed. The SSM revisions to the General Provisions table in major source NESHAP (Table 1 to subpart EEEEE of part 63) being promulgated in this action are also effective on September 10, 2020, as proposed. However, as previously noted in section III.C of this preamble, we are finalizing new work practice standards specific to cupola startup and shutdown. Therefore, we are providing 180 days for facilities to transition to these new requirements and retaining specific provisions within the major source NESHAP at 40 CFR 63.7720 regarding SSM for this 180-day transition period. As proposed, we are also providing 180 days for facilities to transition to the electronic reporting requirements. As such, revisions for selected SSM provisions and for the electronic reporting requirements being promulgated in this action are effective on March 9, 2021.

[4] *https://www.epa.gov/electronic-reporting-air-emissions/cedri.*

IV. What is the rationale for our final decisions and amendments for the Iron and Steel Foundries source categories?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document titled *National Emission Standards for Hazardous Air Pollutants: Iron and Steel Foundries Major Source Residual Risk and Technology Review and Area Source Technology Review—Final Rule—Summary of Public Comments and Responses,* which is available in the docket (Docket ID No. EPA–HQ–OAR–2019–0373).

A. Residual Risk Review for the Major Source Iron and Steel Foundries Source Category

1. What did we propose pursuant to CAA section 112(f) for the major source Iron and Steel Foundries source category?

We proposed that the health risks due to emissions of HAP from the major source Iron and Steel Foundries source category are acceptable and that the NESHAP provides an ample margin of safety to protect public health and that no additional standards are necessary to prevent an adverse environmental effect.

Table 2 of this preamble provides a summary of the results of the inhalation risk assessment for the source category. More detailed information on the risk assessment can be found in the *Residual Risk Assessment for the Iron and Steel Foundries Major Source Category in*

Support of the 2020 Risk and Technology Review Final Rule document, available in the docket for this action.

TABLE 2—IRON AND STEEL FOUNDRIES SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at increased risk of cancer ≥ 1-in-1 million		Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Based on actual emissions level
46	50	50	144,000	144,000	0.02	0.02	0.5 (spleen)	0.5 (spleen)	HQ_{REL} = 1 (arsenic).

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory. The respiratory TOSHI was calculated using the California EPA (CalEPA) chronic reference exposure level (REL) for acrolein.
[4] The maximum estimated acute exposure concentration was divided by available short-term dose-response values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute dose-response value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

As shown in Table 2, for the major source Iron and Steel Foundries source category, the maximum cancer risk to the individual most exposed is 50-in-1 million due to actual emissions or allowable emissions. This risk is less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The estimated incidence of cancer due to inhalation exposures for the source category is 0.02 excess cancer cases per year, or one excess case every 50 years. We estimated that approximately 144,000 people face an increased cancer risk greater than or equal to 1-in-1 million due to inhalation exposure to HAP emissions from this source category. The Agency estimated that the maximum chronic noncancer TOSHI from inhalation exposure, 0.5 (spleen), is less than 1. The screening assessment of worst-case acute inhalation impacts estimated a maximum acute HQ of 1 (due to arsenic) based on the REL.

With regard to multipathway human health risks, we estimated the maximum cancer risk for the highest exposed individual is 20-in-1 million (due to polycyclic organic matter (POM)) and the maximum noncancer chronic HQs are less than 1 for all the HAP known to be persistent and bio-accumulative in the environment (PB–HAP).

A screening-level evaluation of the potential adverse environmental risk associated with emissions of arsenic, cadmium, dioxins, hydrogen chloride, hydrogen flouride, lead, mercury, and POM indicated that no ecological benchmarks were exceeded. Considering all the health risk information and factors discussed above, the EPA proposed that the risks are acceptable and that no additional standards are necessary to prevent an adverse environmental effect.

Under the ample margin of safety analysis, we evaluated the cost and feasibility of available control technologies and other measures that could be applied to further reduce the risks (or potential risks) due to emissions of HAP from the source category. The main control we evaluated to reduce organic HAP emissions was carbon adsorption as a possible add-on control to further reduce VOHAP and associated risks from mold- and core-making and pouring, cooling and shakeout lines at existing sources. The main control we evaluated to reduce metal HAP emissions was improved capture of fugitive PM emissions from scrap handling and melting furnaces and routing them to fabric filter control devices.

We estimated the cost of the additional controls to reduce organic HAP emissions would be $12,700 per ton of organic HAP reduced or greater and would require a capital investment exceeding $27 million. With regard to risk reductions, we estimated the maximum individual risk (MIR) would be reduced from 50-in-1 million to 30-in-1 million, and the number of people with risks ≥ 1-in-1 million would also be reduced.

We estimated the cost of the improved capture and control to reduce metal HAP emissions would be almost $800,000 per ton metal HAP reduced and would require a capital investment of $23 million. With regard to risk reductions, we estimated the HAP metals contribution to the MIR would be reduced from 30-in-1 million to 3-in-1 million, and the number of people with risks ≥ 1-in-1 million would also be reduced.

Based on consideration of the costs and cost effectiveness of both the organic HAP and metal HAP emission control systems, consideration of potential impacts to small businesses, the moderate risk reductions that would be achieved, and the uncertainties in the emissions estimates, we proposed that the Iron and Steel Foundries major source NESHAP provides an ample margin of safety to protect public health, and we did not propose any changes to the NESHAP based on the risk review. For more details regarding the risk review, including the ample margin of safety analysis, see the proposal preamble (84 FR 54398).

2. How did the risk review change for the major source Iron and Steel Foundries source category?

The EPA has not made any changes to either the risk assessments or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the major source Iron and Steel Foundries source category since the proposal was published on October 9, 2019. We are finalizing the risk review as proposed with no changes (84 FR 54394, October 9, 2019).

3. What key comments did we receive on the risk review, and what are our responses?

Comment: Several commenters agreed with the EPA's conclusion that risks from iron and steel foundry emissions are acceptable and that the current standards provide an ample margin of safety, but they suggested that the emissions data used by the EPA are outdated and flawed and that actual emissions are lower, which would result in even lower risk projections. They also stated that the costs of additional controls were significantly understated. According to the commenters, the higher cost coupled with lower emissions, which would also lower the estimated emission reductions, demonstrates that additional controls are not cost effective. On the other hand, one commenter opposed the risk conclusions stating that the EPA did not fully consider fugitive emissions.

Response: Regarding comments on the accuracy and completeness of the emissions and cost estimates, we used the best available emissions data in our risk assessment. We consider the emissions and release characteristics

used in the risk assessment to be reasonable and appropriate for the analysis conducted. It is clear that fugitive emission sources were included as several of these sources were driving the risk estimates for most facilities. We intentionally conducted a screening assessment of control measures using best-case (lowest cost) assumptions to determine whether, under ideal conditions, these controls might be cost effective. Based on the results of our screening analysis, we concluded that the controls were not warranted based on costs and that more detailed analyses of these control systems were not necessary (for more details see the preamble of the proposed rule, 84 FR 54412, October 9, 2019).

Comment: One commenter opposed the risk acceptability conclusion stating that the EPA significantly underestimated the risk because the EPA's Residual Risk Assessment failed to follow the best available science, including:

(1) Underestimating health threats to children and from early-life exposure by ignoring increased risk in childhood and from prenatal exposure;

(2) underestimating health threats to communities exposed to multiple sources by refusing to add factors to account for the increased risks caused by such exposure;

(3) underestimating health threats by refusing to assess health risks at all for pollutants such as lead and refusing to assess multipathway risks for additional emitted persistent bioaccumulative pollutants such as toxic metals like chromium (VI), nickel, beryllium, antimony, and manganese; and

(4) underestimating the cancer, chronic noncancer, and acute health risks by using modeling assumptions that ignore real-world exposures, underestimating risk from chemicals such as benzene, 1,3-butadiene, nickel, manganese, and lead due to the EPA's refusal to follow the best available science and ignoring the more protective health values created by CalEPA's Office of Environmental Health Hazard Assessment (OEHHA).

Response: The EPA disagrees with the commenter's claim that the risk assessment for this source category does not consider the groups that may be most at risk (*e.g.,* children and developing fetuses). When the EPA derives dose-response values for HAP, it considers the most sensitive populations identified in the available literature, and these are the values used in the Agency's risk assessments.[5] The EPA has an approach for selecting appropriate health benchmark values and, in general, this approach places greater weight on the EPA-derived health benchmarks than those from other agencies for the reasons explained in the document titled *Residual Risk Assessment for the Iron and Steel Foundries Major Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket (Docket ID No. EPA–HQ–OAR–2019–0373). Additionally, the approach of favoring the EPA benchmarks (when they exist) has been endorsed by the Science Advisory Board (SAB) and ensures the use of values most consistent with well-established and scientifically-based EPA science policy. The EPA continually evaluates other benchmarks, including CalEPA OEHHA child-specific reference doses (RfDs) and more recent inhalation RELs[6] in the context of assessing risk from exposure to HAP.

With respect to cancer, the EPA uses an age-dependent adjustment factor approach referred to by the commenter but limits the application of age-dependent adjustment factors to carcinogenic pollutants that are known to act via mutagenic mode of action (MOA); in contrast, the CalEPA OEHHA approach is to apply adjustment factors across the board for all carcinogens, regardless of MOA. In lieu of chemical-specific data on which age or life-stage specific risk estimates or potencies can be determined, default age-dependent adjustment factors can be applied when assessing cancer risk for early-life exposures to chemicals that cause cancer through a mutagenic MOA. With regard to other carcinogenic pollutants (*e.g.,* non-mutagenic) for which early-life susceptibility data are lacking, it is the Agency's long-standing science policy position that use of the linear low-dose extrapolation approach (without further adjustment) provides adequate public health conservatism in the absence of chemical-specific data indicating differential early-life susceptibility or when the MOA is not mutagenicity.[7] The basis for this methodology is provided in the EPA's 2005 *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.*[8]

The EPA also disagrees with the commenter that a children's default safety factor of 10 or more should be added to the EPA's reference values in response to the 10X factor enacted by Congress in the Food Quality Protection Act (FQPA) in 1996.[9] [10] In response to the EPA noncancer reference value derivation, the Agency evaluated the methods for considering children's risk in the development of reference values. As part of the response, the EPA (*i.e.,* the Science Policy Council and Risk Assessment Forum) established the RfD/reference concentration (RfC) Technical Panel to develop a strategy for implementing the FQPA and examine the issues relative to protecting children's health and application of the 10X safety factor. One of the outcomes of the Technical Panel's efforts was an in-depth review of a number of issues related to the RfD/RfC process.[11] The most critical aspect in the derivation of a reference value pertaining to the FQPA has to do with variation between individual humans and is accounted for by a default UF when no chemical-specific data are available. The EPA reviewed the default UF for inter-human variability and found the EPA's default value of 10 adequate for all susceptible populations, including children and infants. The EPA also recommended the use of chemical-specific data in preference to default UFs when available[12] and has developed Agency guidance to facilitate consistency in the development and use of data-derived extrapolation factors for RfCs and RfDs.[13] Additionally, the EPA also

[5] U.S. EPA (2002). *A Review of the Reference Dose and Reference Concentration Processes.* U.S. Environmental Protection Agency, Risk Assessment Forum, Washington, DC. EPA/630/P–02/002F. Available online at *https://www.epa.gov/osa/review-reference-dose-and-reference-concentration-processes.*

[6] More recently published OEHHA RELs use a more protective set of inter-individual uncertainty factors (UFs), with a default of 30 as opposed to the EPA default of 10 with the intent of protecting for more susceptible individuals, most notably children.

[7] U.S. EPA (2002). *A Review of the Reference Dose and Reference Concentration Processes.* U.S. Environmental Protection Agency, Risk Assessment Forum, Washington, DC, EPA/630/P–02/002F. Available online at *https://www.epa.gov/osa/review-reference-dose-and-reference-concentration-processes.*

[8] U.S. EPA (2005). *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.* EPA/630/R–03/003F. Washington, DC. Available online at: *https://www3.epa.gov/airtoxics/childrens_supplement_final.pdf.*

[9] U.S. EPA, *Pesticide: Regulating Pesticides. The Food Quality Protection Act (FQPA).*

[10] Available at *https://www.epa.gov/laws-regulations/summary-food-quality-protection-act.*

[11] U.S. EPA (2002). *A Review of the Reference Dose and Reference Concentration Processes.* U.S. Environmental Protection Agency, Risk Assessment Forum, Washington, DC, EPA/630/P–02/002F. Available online at *https://www.epa.gov/osa/review-reference-dose-and-reference-concentration-processes.*

[12] U.S. EPA (1994). *Methods for derivation of inhalation reference concentrations and application of inhalation dosimetry.* (EPA/600/8–90/066F). Research Triangle Park, NC. *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=71993.*

[13] U.S. EPA (2014). *Guidance for Applying Quantitative Data to Develop Data-Derived Extrapolation Factors for Interspecies and*

applies a database UF, which is intended to account for the potential for deriving an under protective RfD/RfC as a result of an incomplete characterization of the chemical's toxicity. In addition to the identification of toxicity information that is lacking, review of existing data may also suggest that a lower reference value might result if additional data were available.

In conclusion, the estimated risks must also be considered in the context of the full set of assumptions used for this risk assessment. The EPA's dose-response values for HAP are considered plausible upper-bound estimates with an appropriate age-dependent adjustment factor. The EPA's chronic noncancer reference values have been derived considering the potential susceptibility of different subgroups, with specific consideration of children. An extra 10-fold UF is not needed in the RfC/RfD methodology because the currently applied factors are considered sufficient to account for uncertainties in the database from which the reference values are derived.

Regarding the commenter's assertion that the EPA has underestimated health threats to communities exposed to multiple sources, the EPA typically examines facility-wide risks to provide additional context to the source category risks. The development of facility-wide risk estimates provides additional information about the potential cumulative risks in the vicinity of the RTR sources, as one means of informing potential risk-based decisions about the RTR source category in question. Because these risk estimates were derived from facility-wide emissions estimates that have not generally been subjected to the same level of engineering review as the source category emission estimates, they may be less certain than the risk estimates for the source category in question, but they remain important for providing context as long as their uncertainty is taken into consideration in the process.

The EPA notes that section 112(f)(2) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address residual risk and interpret "acceptable risk" and "ample margin of safety" as developed in the Benzene NESHAP. In the Benzene NESHAP, the EPA rejected approaches that would have mandated consideration of background levels of pollution in assessing the acceptability of risk, concluding that "With respect to considering other sources of risk from benzene exposure and determining the acceptable risk level for all exposures to benzene, the EPA considered this inappropriate because only the risk associated with the emissions under consideration are relevant to the regulation being established and, consequently, the decisions being made." (54 FR 38044, September 14, 1989). The EPA's authority to use the two-step process laid out in the Benzene NESHAP, and to consider a variety of measures of risk to public health, is discussed more thoroughly in the preamble to the proposed rule. Nothing in the CAA or the Benzene NESHAP in any way forecloses the EPA from considering facility-wide risks in making a determination under CAA section 112(f)(2), as such information can constitute relevant health information. Although not considered in the determination of acceptable risk, the EPA notes that background risks or contributions to risk from sources outside the source category under review could be one of the relevant factors considered in the ample margin of safety determination, along with cost and economic factors, technological feasibility, and other factors.

The EPA acknowledges it does not have screening values for some of the PB–HAP but the EPA disagrees that the multipathway assessment is inadequate. In the Air Toxics Assessment Library (available at: *https://www.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*), the EPA developed the current PB–HAP list considering all of the available information on persistence and bioaccumulation. This list reviewed HAP identified as PB–HAP by other EPA program offices (*e.g.,* the Great Waters Program). This list was peer-reviewed by the SAB and found to be acceptable and, therefore, the EPA considers it to be reasonable for use in the RTR program. Based on these sources and the limited available information on the persistence and bioaccumulation of other HAP, the EPA does not think that the potential for multipathway risk from other HAP rises to the level of the PB–HAP currently on the list.

The EPA disagrees that it has failed to assess potential risks from lead. As for other pollutants included in the assessment of noncancer hazard from inhalation, RTR assessments include lead in the calculation of TOSHIs. For lead, neurological and developmental TOSHIs are calculated. In these indices, modeled concentrations of lead are compared to the 2008 lead National Ambient Air Quality Standards (NAAQS) (which was reviewed and retained in 2016),[14] and other pollutant concentrations are compared to their respective noncancer reference values, then the individual pollutant HQs are summed to calculate the TOSHIs. To assess the potential for hazard from multipathway exposures, modeled air concentrations are compared to the lead NAAQS. The EPA notes that in developing the NAAQS for lead, air-related multipathway effects were already taken into account. That is, as noted at 73 FR 66971, "As was true in the setting of the current standard, multimedia distribution of and multipathway exposure to Pb that has been emitted into the ambient air play a key role in the Agency's consideration of the Pb NAAQS."

While recognizing that lead has been demonstrated to exert "a broad array of deleterious effects on multiple organ systems," the lead NAAQS targets the effects associated with relatively lower exposures and associated blood lead levels, specifically nervous system effects in children including cognitive and neurobehavioral effects (73 FR 66976). The 2008 decision on the lead NAAQS was informed by an evidence-based framework for neurocognitive effects in young children. In applying the evidence-based framework, the EPA focused on a subpopulation of U.S. children, those living near air sources and more likely to be exposed at the level of the standard; to the same effect see 73 FR 67000/3—"The framework in effect focuses on the sensitive subpopulation that is the group of children living near sources and more likely to be exposed at the level of the standard. The evidence-based framework estimates a mean air-related IQ loss for this subpopulation of children; it does not estimate a mean for all U.S. children"; 73 FR 67005/1—"the air-related IQ loss framework provides estimates for the mean air-related IQ loss of a subset of the population of U.S. children, and there are uncertainties associated with those estimates. It provides estimates for that subset of children likely to be exposed to the level of the standard, which is generally expected to be the subpopulation of children living near sources who are likely to be most highly exposed." In addition, in reviewing and sustaining the lead primary NAAQS, the EPA notes that the Court specifically noted that the rule was targeted to protect children living near lead sources: "EPA explained that the scientific evidence

Intraspecies Extrapolation. EPA/100/R–14/002F. *https://www.epa.gov/risk/guidance-applying-quantitative-data-develop-data-derived-extrapolation-factors-interspecies-and.*

[14] *https://www.epa.gov/lead-air-pollution/national-ambient-air-quality-standards-naaqs-lead-pb.*

showing the impact of lead exposure in young children in the United States led it 'to give greater prominence to children as the sensitive subpopulation in this review' and to focus its revision of the lead NAAQS on the 'sensitive subpopulation that is the group of children living near [lead emission] sources and more likely to be exposed at the level of the standard.' Given the scientific evidence on which it relied, the EPA's decision to base the revised lead NAAQS on protecting the subset of children likely to be exposed to airborne lead at the level of the standard was not arbitrary or capricious." *Coalition of Battery Recyclers,* 604 F. 3d at 618.

Regarding the comment that the EPA underestimates the cancer, chronic noncancer, and acute health risks by using modeling assumptions that ignore real-world exposures, underestimating risk from other chemicals such as benzene, 1,3-butadiene, nickel and manganese, due to the EPA's refusal to follow the best available science and ignoring the more protective health values created by CalEPA's OEHHA, the EPA uses dose-response information that has been obtained from various sources. As noted above, the dose-response information is prioritized according to (1) conceptual consistency with the EPA's risk assessment guidelines and (2) level of public and peer review received. The prioritization process is aimed at incorporating into RTR assessments the best available science with respect to dose-response information. Application of this approach generally results in the following priority order: (1) U.S. EPA IRIS, (2) Agency for Toxic Substances and Disease Registry (ATSDR), (3) CalEPA, and (4) other sources. Deviations from this prioritization only occur if there are concerns that the top priority values have become outdated or newer evidence suggests they are not protective; such was not the case for the values used in this RTR assessment. Based on this approach, the EPA determined that the best available science was used in the risk assessment, that the risks are acceptable, that the existing standards provide an ample margin of safety to protect public health, and that no changes are needed from the proposal based on this comment.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum chronic noncancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health "in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision." *Id.* We evaluated additional control measures to reduce the number of persons exposed at risk levels higher than approximately 1-in-1 million and determined that these additional control measures were not reasonable considering the costs and economic impacts. Therefore, we concluded that the major source Iron and Steel Foundries NESHAP provides an ample margin of safety to protect public health without any revisions. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

We evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risks from the major source Iron and Steel Foundries source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed and readopting the standards for the major source Iron and Steel Foundries source category.

B. Technology Review for the Iron and Steel Foundries Source Categories

1. What did we propose pursuant to CAA section 112(d)(6) for the Iron and Steel Foundries source categories?

Pursuant to CAA section 112(d)(6), we proposed to conclude that no revisions to the current major source or area source NESHAP for Iron and Steel Foundries are necessary. Based on our technology review described in the October 9, 2019, proposal (84 FR 54414), we determined that there are no developments in practices, processes, or control technologies that necessitate revisions to the NESHAP for major source Iron and Steel Foundries (40 CFR part 63, subpart EEEEE) or the NESHAP for area source Iron and Steel Foundries (40 CFR part 63, subpart ZZZZZ).

2. How did the technology review change for the Iron and Steel Foundries source categories?

The EPA has not made any changes to the technology review since the proposal was published on October 9, 2019. We are finalizing the technology review as proposed with no changes.

3. What key comments did we receive on the technology reviews, and what are our responses?

Comment: Several commenters agreed with the EPA's proposed technology review conclusions. Other commenters suggested that the EPA needed to revise the standards because the EPA specifically considered the National Vehicle Mercury Switch Recovery Program (NVMSRP) to be a "development" with respect to the major source MACT standards. These commenters also suggested that the EPA should consider fugitive control measures required by Bay Area Air Quality Management District ("BAAQMD") and South Coast Air Quality Management District ("SCAQMD") standards and work practices considered in the EPA's proposed Integrated Iron and Steel Manufacturing RTR proposed rule (84 FR 42704, August 16, 2019) to be "developments" for major and area source foundries and take these into account in this rulemaking.

Response: As an initial matter, CAA section 112(d)(6) does not require the EPA to revise the standards if a "development" is identified, but to consider whether it is necessary to revise the standards in light of the developments. While we acknowledge that the NVMSRP was initiated after the major source rule (40 CFR part 63, subpart EEEEE) was promulgated, we note that the major source rule includes

requirements to remove mercury switches from automotive scrap consistent with the NVMSRP and that it acted as a catalyst for the development of the NVMSRP. Because the major source rule already requires mercury switch removal consistent with this "development," no additional revisions to the major source rule were deemed "necessary." With respect to additional fugitive emissions requirements, we specifically assessed adding improved capture and control requirements to reduce emissions of fugitive metal HAP emissions similar to those suggested by the commenter (see *Control Cost Estimates for Metal HAP Emissions from Iron and Steel Foundries,* which is available in the docket as Docket Item No. EPA–HQ–OAR–2019–0373–0015). We concluded that these control measures were not cost effective and that it was not necessary to revise the rule to reduce fugitive metal HAP emissions. Thus, we maintain our conclusion that it is not necessary to revise the standards based on the developments cited by the commenter.

4. What is the rationale for our final approach for the technology reviews?

We evaluated all of the comments on the technology reviews and determined that no changes to the reviews are needed. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology reviews as proposed.

C. Removal of the SSM Exemptions

1. What did we propose?

The EPA proposed amendments to the major and area source Iron and Steel Foundries NESHAP to remove the provisions related to SSM in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008) that standards apply at all times. As detailed in the October 2019 proposal, we proposed the following amendments.

- Revising the General Provisions applicability tables (Table 1 to subpart EEEEE of part 63 and Table 3 to subpart ZZZZZ of part 63) to change the following entries from a "yes" in column 3 (indicating the provision applies) to a "no":
  - 40 CFR 63.6(e)
  - 40 CFR 63.6(f)(1)
  - 40 CFR 63.6(h)(1)
  - 40 CFR 63.7(e)(1)
  - 40 CFR 63.8(c)(1)(i) and (iii)
  - 40 CFR 63.8(d)(3)
  - 40 CFR 63.10(b)(2)(i), (ii), (iv), and (v)
  - 40 CFR 63.10(c)(7) [for subpart EEEEE]; 40 CFR 63.10(c) [for subpart ZZZZZ]
  - 40 CFR 63.10(d)(5)
  - 40 CFR 63.10(e)(3) [for subpart ZZZZZ; subpart EEEEE already indicates "no"]
- Revising the following paragraphs in 40 CFR part 63, subpart EEEEE, to remove the language in the rule that exempted affected sources from compliance with the standards during periods of SSM, as well as references to General Provision sections or requirements that no longer apply.
  - 40 CFR 63.7710(a) to remove reference to 40 CFR 63.6(e)(1)(i)
  - 40 CFR 63.7720(a) to delete the phrase ". . ., except during periods of startup, shutdown, or malfunction"
  - 40 CFR 63.7720(c) to delete and reserve the paragraph
  - 40 CFR 63.7746(b) to delete and reserve the paragraph
  - 40 CFR 63.7751(b)(4) and (c) to delete and reserve the paragraphs
  - 40 CFR 63.7752(a)(2) to remove reference to 40 CFR 63.6(e)(3) and require records require by 40 CFR 63.10(b)(2)(iii)
  - 40 CFR 63.7752(b)(4) to remove the records needed to indicate whether deviation of a continuous emission monitoring system occurred during periods of SSM
- Revising the following paragraphs in 40 CFR part 63, subpart ZZZZZ, to remove references to General Provision sections or requirements that no longer apply.
  - 40 CFR 63.10890(i) [re-designated to 40 CFR 63.10890(j)] to remove reference to 40 CFR 63.6(e)
  - 40 CFR 63.10897(g) to remove reference to minimizing periods of SSM
  - 40 CFR 63.10899(b) to revise the general reference to records required by 40 CFR 63.10 to specify that only records required by 40 CFR 63.10(b)(2)(iii), (vi) through (xiv), and (b)(3) are necessary
- Adding 40 CFR 63.7752(d) of subpart EEEEE and 40 CFR 63.10899(b)(15) of subpart ZZZZZ to specify recordkeeping requirements during a malfunction.
- Revising 40 CFR 63.7751(b)(7) and (8) of subpart EEEEE and 40 CFR 63.10899(c) of subpart ZZZZZ to specify reporting requirements for specific deviations.

We proposed that the effective date of these revisions be the date of promulgation of the final rule. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 54415–44419, October 9, 2019).

2. What changed since proposal?

For the area source rule (40 CFR part 63, subpart ZZZZZ), we are finalizing the revisions to the SSM provisions as proposed with no changes. For the major source rule (40 CFR part 63, subpart EEEEE), we are finalizing most revisions regarding SSM provisions as proposed such that the emission limits apply at all times without the need for different standards during periods of startup and shutdown. However, for new and existing major source cupola melting furnaces, we are finalizing specific work practice standards for VOHAP emissions that apply during startup and shutdown. For cupola melting furnaces, we are finalizing that the 20 ppmv VOHAP emission limit in 40 CFR 63.7690(a)(8) applies only while the cupola is "on blast" (normal operations) and we are adding work practice standards at 40 CFR 63.7700(g) to limit VOHAP emissions during periods of off blast, which includes startup, shutdown, or idling. We are adding reference to these new work practice standards in 40 CFR 63.7710(b) so that the O&M plan specifically covers the capture and control systems used to comply with the new work practice standards. We are adding reference to these new work practice standards at 40 CFR 63.7740(e) and 63.7741(d) to require temperature monitoring to demonstrate that the afterburner or other thermal combustion device flame is present as required in 40 CFR 63.7700(g)(2)(i). We are also adding additional recordkeeping requirements at 40 CFR 63.7744(e) for facilities to demonstrate continuous compliance with the new work practice standards. These records include: Combustion zone temperature for the cupola's thermal combustion control device, the time blast air is started to begin the coke bed burn-in, the time the cupola afterburner or other thermal combustion device is lit, the time metal production starts during cupola startup, the time when metal production ends, the time slag removal was completed, the time the afterburner or other thermal combustion device is turned off during cupola shutdown, and the times idling starts and stops.

With regard to compliance dates, we are providing 180 days to comply with these new work practice standards for major source iron and steel foundries and also for the SSM related provisions in 40 CFR 63.7720 including provisions that state the emission limits apply at all times. We are retaining the rule-specific SSM provisions from the original NESHAP (including the requirement to have an SSM plan) for the first 180 days until the compliance date for the new work practice standards becomes effective. For other proposed SSM

revisions in the major source rule and for all of the proposed SSM revisions in that area source rule, which are predominately revisions to General Provisions applicability tables, we are finalizing requirements that foundry owners or operators will need to comply with these revisions on the date this final rule is published in the **Federal Register**.

3. What are the key comments and what are our responses?

Comments: Several commenters supported the proposed removal of the SSM exemptions. One commenter indicated that meeting the parametric monitoring requirement of 1,300 degrees Fahrenheit for afterburners that are used to control VOHAP emissions from cupola furnaces is likely to be an issue during cupola startup and shutdown and recommended new definitions of "cupola startup" and "cupola shutdown," and revisions to the definition of "off blast" as follows:

Cupola Startup means the time beginning when molten metal is first tapped from a cupola that had previously been shut down.

Cupola Shutdown means the time ending once the last charge is added to the cupola preceding either cupola banking or cupola bottom drop.

Off Blast means those periods of cupola operation when the cupola is not actively being used to produce molten metal. Off blast conditions also include idling conditions when the blast air is turned off or down to the point that the cupola does not produce additional molten metal.

The same commenter recommended that the compliance date related to SSM-related rule changes be revised to 180 days after the date of the final rule for both subparts EEEEE and ZZZZZ of 40 CFR part 63 to allow facilities sufficient time to extract O&M plans that may be integrated with SSM plans as well as to develop other facility-specific procedures to address amended rule requirements related to SSM events.

Response: As discussed in the preamble to the October 2019 proposal (84 FR 54415, October 9, 2019), we acknowledged that the cupola afterburners would not be able to meet the 1,300 degrees Fahrenheit parametric monitoring temperature limit during off blast conditions, but we expected that the emissions would still be compliant with the 20 ppmv VOHAP emission limit. Therefore, initially, we did not understand why the new definitions would be helpful or necessary. So, we contacted the commenter to seek clarification of their comments. On February 12, 2020, we had a teleconference meeting with the commenter to try to better understand the issue. The notes of the meeting are in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2019–0373). On March 9, 2020, the commenter provided a document providing further detail of the cupola startup and shutdown procedures and suggested work practices as an alternative to the suggested definitions (see email from Jeff Hannapel to Phil Mulrine dated March 9, 2020, included in Docket ID No. EPA–HQ–OAR–2019–0373). On April 2, 2020, we had an additional teleconference meeting with the commenter to discuss the information provided in the March 9, 2020, email. The notes of this meeting are also in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2019–0373).

During the meetings, the commenter clarified that their main concern was the VOHAP emissions limit, not the temperature limit. They explained that there is uncertainty as to whether the cupola furnaces would meet the VOHAP limit during these periods and that no one has ever tested emissions during these periods. We also learned that the definitions suggested by the commenter were intended to remove preparatory steps from what was considered startup because of the uncertainty regarding whether they would be able to meet the VOHAP emissions limit during those periods. However, as some of these preparatory steps have the potential to emit VOHAP, we concluded that the suggested definitions were not consistent with the 2008 Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

Based on our improved understanding of the startup and shutdown procedures for the cupola furnace and related issues, we have determined that work practice standards are appropriate for these periods. As noted in CAA section 112(h)(1), "if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f)." CAA section 112(h)(2) defines the phrase "not feasible to prescribe or enforce an emission standard" as any situation in which the Administrator determines that either "a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State or local law" or "the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations."

We have concluded that, during periods of cupola off blast, which includes startup, shutdown, and idling, it is not feasible to prescribe or enforce the numeric limits of the emission standard for VOHAP and that standards may be appropriately established under CAA section 112(h). The cupola furnace is essentially an open column during the initial cupola startup steps and during the final cupola shutdown steps, and the emissions are not emitted through a conveyance. Further, the initial procedures to prepare the cupola bed or remove the cupola from service cannot be safely completed with the cupola VOHAP control system operating. After further evaluation, we have determined the appropriate requirements for these steps (specifically refractory curing, cupola bed preparation, and the initial phases of cupola coke bed preparation during cupola startup and the final cooling stages and cupola banking or bottom drop during cupola shutdown) are the general duty requirements in 40 CFR 63.7710(a) to operate according to procedures to minimize emissions as contained in the O&M plan and to comply with the opacity limit at 40 CFR 63.7690(a)(7). We are adding definitions of "cupola startup" and "cupola shutdown" to describe the various steps for cupola startup and cupola shutdown to clarify when the work practice standards apply. For other startup and shutdown procedures, the cupola tuyere covers are closed, and the capture and control system can be operated. We modified the definition of "off blast" to clearly specify that off blast includes shutdown procedures as well as startup procedures. Even though the capture system can be operated during portions of off blast periods, we determined that the application of reliable emissions measurement methodologies to this source during these off blast periods is not practicable due to technological limitations. First, the flow rates during periods of off blast are typically low and highly variable. Additionally, the off blast periods are short duration (*e.g.,* less than 3 hours), and the required duration of a performance test to evaluate compliance with the VOHAP emission limit is 3 hours. As such, we determined that work practice standards

are appropriate for VOHAP during off blast periods. We are requiring that owners/operators (1) begin operating the cupola afterburner or other thermal combustion device as soon as practicable after beginning the coke bed preparatory step but no later than 30 minutes after the blast air is started to begin the coke bed burn-in and (2) operate the afterburner or other thermal combustion device with a flame present at all times during other off blast periods. Maintaining the operation of the afterburner during off blast periods will ensure VOHAP emissions that come from the process are combusted. Based on our understanding of the current operations of these furnaces and practices applied in the industry, we believe these requirements reflect the procedures of the best performing sources.

With respect to the compliance dates related to SSM changes, we proposed that the proposed revisions would become effective immediately because we expected that facilities could comply immediately with the standards at all times and that no or limited revisions in procedures would be needed. Because we are finalizing specific work-practice standards that apply to VOHAP emissions during cupola startup and shutdown for major source iron and steel foundries, we expect that some facilities will need to revise their startup procedures and revise their O&M plans to comply with the new work practice standards. Consequently, as suggested by the commenter, we are providing 180 days for major source facilities to transition from their existing SSM plans to compliance with the emission limitations, including the new work practice standards, at all times. We consider 180 days to be the minimum time needed to complete the management of these changes, which includes evaluating the changes, forming a team to accomplish the changes, conducting safety assessments, updating associated plans and procedures, and providing training to implement the changes. We consider a period of 180 days to be the most expeditious compliance period practicable, and, thus, we are finalizing the requirement that existing affected sources be in compliance with all of the revised requirements in the major source NESHAP within 180 days of the effective date of this final rule. We are revising 40 CFR 63.7720(a) and (c), which require preparation and operation according to an SSM plan, to provide a 180-day compliance period with these specific SSM provisions in the major source NESHAP as foundry owners or operators transition to the new work practice standards for cupola VOHAP emissions. Additional time is not required for the areas source NESHAP SSM revisions that were proposed or other major source NESHAP SSM revisions (not referenced above) that were proposed because operational changes are not needed to implement these other revisions, which are primarily revisions to the General Provisions applicability tables. As such, we are finalizing that those requirements become effective upon the date of promulgation as proposed.

4. What is the rationale for our final approach for the SSM provisions?

We evaluated all comments on the EPA's proposed amendments to remove the SSM provisions. For the reasons explained in the proposed rule, we determined that the proposed removal of the SSM exemptions is required to be consistent with the 2008 Court decision that standards apply at all times. For the area source NESHAP, we are finalizing our approach for removing the SSM exemptions as proposed. For the major source NESHAP, we are finalizing our approach for removing the SSM exemptions as proposed, except for provisions related to cupola furnace VOHAP emission limits. More information concerning the non-cupola amendments that we are finalizing for SSM is in the preamble to the proposed rule (84 FR 54415–54419, October 9, 2019). For cupola furnaces at major source iron and steel foundries, as described above in section IV.C.3 of this preamble, we determined that work practice standards during startup and shutdown are appropriate for the VOHAP standards under the provision of CAA section 112(h). We added monitoring and recordkeeping requirements for foundry owners or operators to demonstrate compliance with the new work practice standards. The temperature monitoring requirement is the same as needed to demonstrate compliance during normal "on blast" conditions, so we expect the monitoring requirement will not increase burden appreciably. The recordkeeping requirements are new and specific to documenting relevant times of off blast so facilities can demonstrate compliance with the new work practice standards. Semiannual reporting of deviations is required in the major source NESAHP, so reporting of deviations from the new work practice standards is also required. We determined that these additional requirements were the minimum necessary to demonstrate compliance with the new work practice standards for VOHAP from cupola furnaces during periods of off blast.

For the reasons detailed in section IV.C.3 of this preamble, we are finalizing these new work practice standards in the major source NESHAP during cupola startup and shutdown and providing 180 days to comply with these new requirements. During this 180-day transition period, major source foundry owners or operators must operate according to their SSM plan and we are retaining these specific SSM provisions in the major source NESHAP at 40 CFR 63.7720(a) and (c) for the 180-day transition period. We determined 180 days to be the most expeditious compliance period practicable to implement operational changes. For affected sources that commence construction or reconstruction after the effective date of these amendments, they must be in compliance with all emission limitations, including the new work practice standards, upon startup because additional time is not needed for these sources.

D. Electronic Reporting

1. What did we propose?

We proposed amendments to the major and area source Iron and Steel Foundries NESHAP to require foundry owners or operators to submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports through the EPA's Central Data Exchange (CDX) using CEDRI. Additionally, we proposed two broad circumstances in which electronic reporting extensions may be provided at the discretion of the Administrator. The EPA proposed these extensions to protect owners or operators from noncompliance in cases where they are unable to successfully submit a report by the reporting deadline for reasons outside of their control, including CDX and CEDRI outages and *force majeure* events, such as acts of nature, war, or terrorism.

2. What changed since proposal?

We determined that no changes were necessary to the proposed requirements for foundry owners or operators to submit initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI. Therefore, we are finalizing the electronic reporting provisions as proposed (84 FR 54419, October 9, 2019).

3. What are the key comments and what are our responses?

Comment: The EPA received one comment generally supporting the proposed amendment to require electronic reporting but asserting that the *force majeure* language should be removed. The commenter expressed concern that the *force majeure* provisions violate the requirement for standards to be continuous and that they would allow unreported exceedances to go unchecked indefinitely.

Response: Regarding the *force majeure* provisions, we disagree that the ability to request a reporting extension would create a mechanism that owners or operators could use to evade binding emissions standards or provide a mechanism where those emission standards do not apply at all times. Also, we note that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a category 5 hurricane event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate and, if so, determine a reasonable length. The Administrator may even request that the report be sent in hard copy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the CEDRI outage is resolved or after the *force majeure* event occurs.

Comment: One commenter stated that electronic reporting through CEDRI should not be required for states delegated to administer/enforce the NESHAP, unless electronic reporting is specifically required by the state.

Response: Regarding having delegated states determine whether electronic reporting is required, we note that the delegation of authority to states does not relieve facilities of their obligation to report to the EPA per 40 CFR 63.13(a), which requires all requests, reports, applications, submittals, and other communications shall be submitted to the appropriate Regional office of the EPA. In the case of the electronic reporting, those obligations are met through the submission to CEDRI. We are retaining the requirement to report through CEDRI for all reporters, as proposed. To clarify that electronic submission when required by regulation meets the requirement of 40 CFR 63.13(a), Table 1 of subpart EEEEE and Table 3 of ZZZZZ have been amended to specify in the explanation column that "Except: reports and notifications required to be submitted to CEDRI meet this obligation through electronic reporting."

4. What is the rationale for our final approach to electronic reporting?

We are finalizing as proposed a requirement in both the area source NESHAP and major source NESHAP that owners or operators of iron and steel foundries submit electronic copies of notifications, performance evaluation reports, and semiannual compliance reports using CEDRI. We also are finalizing, as proposed, provisions that allow facility owners or operators a process to request extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event). Based on public comments received, we are finalizing an additional revision to the General Provision tables (Table 1 to subpart EEEEE and Table 3 to subpart ZZZZZ) to add a specific entry for 40 CFR 63.13(a), and clarifying in the explanation column that electronic submissions to CEDRI meet the reporting requirement at 40 CFR 63.13(a). These amendments will increase the ease and efficiency of data submittal for owners and operators of iron and steel foundries and will make the data more accessible to regulators and the public.

E. Technical and Editorial Corrections

1. What did we propose?

We proposed one editorial correction for 40 CFR part 63, subpart EEEEE, to revise 40 CFR 63.7732(e)(1) to correct the reference to "paragraphs (b)(1)(i) through (v)" to be "paragraphs (e)(1)(i) through (v)."

We proposed several technical and editorial corrections for 40 CFR part 63, subpart ZZZZZ as follows.

- To match requirements in 40 CFR part 63, subpart EEEEE, revise 40 CFR 63.10885(a)(1) to add the sentence: "Any post-consumer engine blocks, post-consumer oil filters, or oily turnings that are processed and/or cleaned to the extent practicable such that the materials do not include lead components, mercury switches, chlorinated plastics, or free organic liquids can be included in this certification."
- Revise 40 CFR 63.10890(c) to correct the reference to "§ 63.9(h)(1)(i)" to be "§ 63.9(h)(2)(i)."
- Revise 40 CFR 63.10890(f) to correct the reference to "§ 63.10(e)" to be "§ 63.13."
- Revise 40 CFR 63.10897(d)(3) and (g) to replace all instances of "correction action" with "corrective action" to correct typographical errors.
- Revise 40 CFR 63.10899(c) to correct the reference to "§ 63.10(e)" to be "§ 63.13."
- To match requirements in 40 CFR part 63, subpart EEEEE, revise the entry for 40 CFR 63.9 in Table 3 to subpart ZZZZZ to add an explanation in column 4 to read "Except for opacity performance tests."

2. What changed since proposal?

We determined that no changes were necessary to the proposed technical and editorial corrections outlined above. Therefore, we are finalizing these technical and editorial corrections with no changes (84 FR 54420, October 9, 2019). We did receive notification of a typographical error in 40 CFR 63.10897(d)(1)(i) of subpart ZZZZZ, which specifies detection limits for bag leak detectors. The detectors must be capable of detecting emissions of PM at concentrations of 10 milligrams per actual cubic meter. This requirement includes a parenthetical providing the limit in units of grains per actual cubic feet. Unfortunately, in the area source rule, the limit in units of grains per actual cubic feet included a typographical error, listing it as 0.00044 rather than 0.0044 grains per actual cubic feet. The correct unit conversion for 10 milligrams per actual cubic meter is 0.0044 grains per actual cubic feet. The correct value is included in the major source rule at 40 CFR 63.7741(b)(1). Based on the identification of this additional typographical error, we are finalizing revision of 40 CFR 63.10897(d)(1)(i) to revise the parenthetical from "(0.00044 grains per actual cubic foot)" to "(0.0044 grains per actual cubic foot)."

3. What are the key comments and what are our responses?

The EPA did not receive any comments on the proposed technical and editorial corrections.

4. What is the rationale for our final approach to technical and editorial corrections?

We identified necessary technical and editorial corrections and received no comments except for the identification of a typographical error (discussed above) at 40 CFR 63.10897(d)(1)(i) in subpart ZZZZZ. Therefore, we are finalizing the revisions, including correction of the typographical error in order to correct and clarify the requirements in the rules.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected sources?

There are approximately 45 major source iron and steel foundries subject to 40 CFR part 63, subpart EEEEE, and approximately 390 area source iron and steel foundries subject to 40 CFR part 63, subpart ZZZZZ.

B. What are the air quality impacts?

Because we are not revising the emission limitations for iron and steel foundries other than the new work practice standards for VOHAP for major sources during startup and shutdown for cupola melting furnaces, we do not anticipate any quantifiable air quality impacts as a result of the final amendments. However, since the final amendments include the removal of the SSM exemptions for both major and area sources and the addition of new work practice standards for cupola startup and shutdown for major sources, this final rule may reduce emissions by an unquantified amount by ensuring proper operation of control devices and other measures during SSM periods.

C. What are the cost impacts?

We expect that the final amendments will have minimal cost impacts for iron and steel foundries. The final editorial corrections will have no cost impacts. The final revisions to use electronic reporting effectively replace existing requirements to mail in copies of the required reports and notifications. We expect that the electronic system will save some time and expense compared to printing and mailing the required reports and notifications; however, it will take some time for foundry owners or operators to review the new electronic notification and reporting form, review their recordkeeping processes, and potentially revise their processes to more efficiently complete their semiannual reports. There may also be initial costs associated with electronic reporting of performance tests. We are also finalizing revisions to SSM provisions. Again, these revisions are expected to have minimal impact on affected iron and steel foundries. For major source iron and steel foundries, we are eliminating the need to develop a SSM plan or submit an immediate SSM report when the SSM plan is not followed and there is an exceedance of an applicable emission limitation. While this may reduce some burden, iron and steel foundry owners or operators will still need to assess their operations and make plans to achieve the emission limitations at all times, including periods of startup, shutdown, or malfunction. Additionally, we are adding new recordkeeping requirements for major source foundries related to cupola off blast periods, which includes cupola startup, shutdown, and idling periods to demonstrate compliance with the new work practice standards.

For the 45 major source iron and steel foundries subject to 40 CFR part 63, subpart EEEEE, we estimate the first-year costs associated with the final electronic reporting and SSM revisions will be $107,000 or approximately $2,380 per major source foundry. This includes one-time costs to learn the electronic reporting templates and set up recordkeeping systems to work with the electronic reporting, one-time costs for facilities that conducted a source test to learn the electronic reporting system for submitting performance tests, and costs associated with the new recordkeeping requirements for the work practice standards to reduce cupola VOHAP emissions while off blast. As performance tests are required every 5 years, we expect facilities will continue to incur additional costs for reporting performance test results, since facilities reporting performance test results in Year 2, 3, 4, or 5 would be using that system for the first time. For Years 2 and on, owners or operators of major source foundries will incur annual costs associated with recordkeeping requirements for the work practice standards to reduce cupola VOHAP emissions while off blast, but they will also realize some cost savings for semiannual reporting due to efficiencies achieved once they adapt to the new electronic reporting system. We estimate the nationwide annual costs for Years 2 through 5 would be approximately $32,500 per year or $720 per year per major source foundry.

For the 390 area source foundries subject to 40 CFR part 63, subpart ZZZZZ, we estimate the total first year costs associated with the final electronic reporting and SSM revisions will be $352,000 or approximately $900 per area source foundry. This includes one-time costs to learn the electronic reporting templates and set up recordkeeping systems to work with the electronic reporting and, for large area source foundries only, one-time costs to learn the electronic reporting system for submitting performance tests for those facilities that conducted a performance test. Because performance tests are required every 5 years, we expect a portion of the large area source foundries will continue to incur additional costs for reporting performance test results, since facilities reporting performance test results in Year 2, 3, 4, or 5 would be using that system for the first time. For Years 2 and on, all area source foundries will also realize some cost savings for semiannual reporting due to efficiencies achieved once facilities adapt to the new electronic reporting system. We estimate that all area source will realize a net cost savings for Years 2 and on and that the cumulative saving across all area source foundries would be $67,400 per year or a savings of $170 per year per area source foundry.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. Because the costs associated with the final revisions are minimal, no significant economic impacts are anticipated as a result of the final amendments.

E. What are the benefits?

The final amendments will result in improvements to the rule. Specifically, the final amendments revise the standards to reflect that they apply at all times. Additionally, the final amendments requiring electronic submittal of initial notifications, performance test results, and semiannual reports will increase the usefulness of the data, are in keeping with current trends of data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community. The final technical and editorial corrections improve the clarity of the rule.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the major source Iron and Steel Foundries source category across different demographic groups within the populations living near facilities.[15]

The results of the major source Iron and Steel Foundries source category demographic analysis indicate that emissions from the source category expose approximately 144,000 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer hazard index greater than or equal to 1. The African American population exposed to a cancer risk at or above 1-in-1 million due to iron and steel foundries emissions is 4 percent above the national average. Likewise, populations living "Below Poverty Level" and "Over 25 and without High School Diploma" are exposed to cancer risk above 1-in-1 million, 6 and 4 percent above the national average, respectively. The percentages of the at-risk population in other demographic groups are similar to or lower than their respective nationwide percentages. The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Iron and Steel Foundries,* available as Docket Item No. EPA–HQ–OAR–2019–0373–0020.

[15] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living 2 times the poverty level, and linguistically isolated people.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health risk assessments for this action are contained the document titled *Residual Risk Assessment for the Iron and Steel Foundries Major Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket (Docket ID No. EPA–HQ–OAR–2019–0373).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA.

1. Iron and Steel Foundries Major Sources

The information collection request (ICR) document that the EPA prepared has been assigned EPA ICR number 2096.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that require electronic reporting, remove the malfunction exemption, and impose other revisions that affect reporting and recordkeeping for iron and steel foundries major source facilities. This information will be collected to assure compliance with 40 CFR part 63, subpart EEEEE.

Respondents/affected entities: Owners or operators of iron and steel foundries major source facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart EEEEE).

Estimated number of respondents: 45 (total).

Frequency of response: Initial, semiannual, and annual.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be 15,400 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be $1,440,000 (per year), which includes $206,000 annualized capital or O&M costs.

2. Iron and Steel Foundries Area Sources

The ICR document that the EPA prepared has been assigned EPA ICR number 2267.07. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that require electronic reporting, remove the malfunction exemption, and impose other revisions that affect reporting and recordkeeping for iron and steel foundries area source facilities. This information will be collected to assure compliance with 40 CFR part 63, subpart ZZZZZ.

Respondents/affected entities: Owners or operators of iron and steel foundries area source facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart ZZZZZ).

Estimated number of respondents: 390 (total), 75 of these are classified as large iron and steel foundries and 315 are classified as small iron and steel foundries.

Frequency of response: Initial, semiannual, and annual.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be 14,400 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be $1,150,000 (per year); there are no annualized capital or O&M costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The final amendments have a very limited one-time burden as affected facilities implement electronic reporting for the first time, but affected facilities will see a net cost savings in subsequent years that will off-set the initial one-time costs within the first 3 years after implementation. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. No tribal governments own facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and IV.A of this preamble. Further documentation is provided in the following risk report titled *Residual Risk Assessment for the Iron and Steel Foundries Major Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Iron and Steel Foundries,* available as Docket Item No. EPA–HQ–OAR–2019–0373–0020.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EEEEE—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries

■ 2. Section 63.7690 is amended by revising paragraph (a)(8) to read as follows:

§ 63.7690 What emissions limitations must I meet?

(a) * * *

(8) For each cupola metal melting furnace at a new or existing iron and steel foundry, you must not discharge emissions of volatile organic hazardous air pollutants (VOHAP) through a conveyance to the atmosphere that exceed 20 parts per million by volume (ppmv) corrected to 10-percent oxygen while on blast.

* * * * *

■ 3. Section 63.7700 is amended by adding paragraph (g) to read as follows:

§ 63.7700 What work practice standards must I meet?

* * * * *

(g) For each cupola at a new or existing iron and steel foundry, you must reduce VOHAP emissions to the extent practicable during periods of off blast, as defined in § 63.7765, by meeting the applicable requirements in paragraph (g)(1) or (2) of this section.

(1) On and before March 9, 2021, you must comply with the requirements in § 63.7710 and the requirements specified in the startup, shutdown, and malfunction plan required at § 63.7720(c).

(2) After March 9, 2021, you must comply with the applicable requirements in paragraphs (g)(2)(i) through (iii) of this section.

(i) Except as provided in paragraphs (g)(2)(ii) and (iii) of this section, you

must operate an afterburner or other thermal combustion control device with a flame present at all times while the cupola is off blast. This includes the latter portion of coke bed preparation step and the initial metallics charging step during cupola startup, the slag and residual metal removal step during cupola shutdown, and idling conditions when the blast air is turned off or down to the point that the cupola does not produce additional molten metal.

(ii) During cupola startup steps of refractory curing and cupola bed preparation and during the cupola shutdown steps of cupola cooling and banking or bottom drop, you must comply with the requirements in § 63.7710 and the opacity limit in § 63.7690(a)(7).

(iii) You must light the cupola afterburner or other thermal combustion control device as soon as practicable during the cupola startup step of coke bed preparation following the procedures included in the operation and maintenance plan required at § 63.7710(b), but no later than 30 minutes after the blast air is started to begin the coke bed burn-in.

■ 4. Section 63.7710 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.7710 What are my operation and maintenance requirements?

(a) You must always operate and maintain your iron and steel foundry, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart.

(b) You must prepare and operate at all times according to a written operation and maintenance plan for each capture and collection system and control device for an emissions source subject to a PM, metal HAP, TEA, or VOHAP emissions limit in § 63.7690(a) or the work practice standards in § 63.7700(g). Your operation and maintenance plan also must include procedures for igniting gases from mold vents in pouring areas and pouring stations that use a sand mold system. This operation and maintenance plan is subject to approval by the Administrator. Each plan must contain the elements described in paragraphs (b)(1) through (6) of this section.

* * * * *

■ 5. Section 63.7720 is amended by revising paragraphs (a) and (c) to read as follows:

§ 63.7720 What are my general requirements for complying with this subpart?

(a) On and before March 9, 2021, for affected sources that commenced construction or reconstruction on or before September 10, 2020, you must be in compliance with the emissions limitations, work practice standards, and operation and maintenance requirements in this subpart at all times, except during periods of startup and shutdown. After March 9, 2021, for affected sources that commenced construction or reconstruction on or before September 10, 2020, and upon startup for affected sources that commenced construction or reconstruction after September 10, 2020, you must be in compliance with the emissions limitations, work practice standards, and operation and maintenance requirements in this subpart at all times.

* * * * *

(c) On and before March 9, 2021, for affected sources that commenced construction or reconstruction on or before March 9, 2021, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The startup, shutdown, and malfunction plan also must specify what constitutes a shutdown of a cupola and how to determine that operating conditions are normal following startup of a cupola. After March 9, 2021, for affected sources that commenced construction or reconstruction on or before September 10, 2020, and upon startup for affected sources that commenced construction or reconstruction after September 10, 2020, the startup, shutdown, and malfunction plan requirements no longer apply.

■ 6. Section 63.7732 is amended by revising paragraphs (a) and (e)(1) introductory text to read as follows:

§ 63.7732 What test methods and other procedures must I use to demonstrate initial compliance with the emissions limitations?

(a) You must conduct each performance test that applies to your iron and steel foundry based on your selected compliance alternative, if applicable, according to the requirements in paragraphs (b) through (i) of this section. Each performance test must be conducted under conditions representative of normal operations. Normal operating conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(e) * * *

(1) Determine the VOHAP concentration for each test run according to the test methods in 40 CFR part 60, appendix A, that are specified in paragraphs (e)(1)(i) through (v) of this section.

* * * * *

■ 7. Section 63.7740 is amended by revising paragraph (e) to read as follows:

§ 63.7740 What are my monitoring requirements?

* * * * *

(e) For each combustion device subject to the operating limit in § 63.7690(b)(3) or the work practice standard in § 63.7700(g)(2)(i), you must at all times monitor the 15-minute average combustion zone temperature using a CPMS according to the requirements of § 63.7741(d).

* * * * *

■ 8. Section 63.7741 is amended by revising paragraph (d) introductory text to read as follows:

§ 63.7741 What are the installation, operation, and maintenance requirements for my monitors?

* * * * *

(d) For each combustion device subject to the operating limit in § 63.7690(b)(3) or (4) or the work practice standard in § 63.7700(g)(2)(i), you must install and maintain a CPMS to measure and record the combustion zone temperature according to the requirements in paragraphs (d)(1) through (8) of this section.

* * * * *

■ 9. Section 63.7744 is amended by adding paragraph (e) to read as follows:

§ 63.7744 How do I demonstrate continuous compliance with the work practice standards that apply to me?

* * * * *

(e) For each cupola furnace at a new or existing iron and steel foundry in off blast, you must keep daily records to document the relevant times of off blast, in conjunction with the requirements to monitor and record the combustion zone temperature for the cupola's thermal combustion control device as required in §§ 63.7740(e) and 63.7741(d), to demonstrate continuous compliance with the requirements in § 63.7700(g). The relevant times of off

blast include: The time blast air is started to begin the coke bed burn-in, the time the cupola afterburner or other thermal combustion device is lit, and the time metal production starts during cupola startup; the time when metal production ends, the time slag removal is completed, and the time the afterburner or other thermal combustion device is turned off during cupola shutdown; and the times idling starts and stops.

§ 63.7746 [Amended]

■ 10. Section 63.7746 is amended by removing and reserving paragraph (b).

■ 11. Section 63.7751 is amended by:

■ a. In paragraph (a) introductory text, removing "Compliance report due dates" and adding "*Compliance report due dates*" in its place;

■ b. In paragraph (b) introductory text, removing "Compliance report contents" and adding "*Compliance report contents*" in its place;

■ c. Removing and reserving paragraph (b)(4);

■ d. Revising paragraphs (b)(6) through (8);

■ e. Removing and reserving paragraph (c);

■ f. In paragraph (d), removing "Part 70 monitoring report" and adding "*Part 70 monitoring report*" in its place; and

■ g. Adding paragraphs (e) through (i).

The revisions and additions read as follows:

§ 63.7751 What reports must I submit and when?

* * * * *

(b) * * *

(6) If there were no periods during which a continuous monitoring system (including a CPMS or CEMS) was inoperable or out-of-control as specified by § 63.8(c)(7), a statement that there were no periods during which the CPMS was inoperable or out-of-control during the reporting period.

(7) For each affected source or equipment for which there was a deviation from an emissions limitation (including an operating limit, work practice standard, or operation and maintenance requirement) that occurs at an iron and steel foundry during the reporting period, the compliance report must contain the information specified in paragraphs (b)(7)(i) through (iii) of this section. The requirement in this paragraph (b)(7) includes periods of startup, shutdown, and malfunction.

(i) A list of the affected source or equipment and the total operating time of each emissions source during the reporting period.

(ii) For each deviation from an emissions limitation (including an operating limit, work practice standard, or operation and maintenance requirement) that occurs at an iron and steel foundry during the reporting period, report:

(A) The date, start time, duration (in hours), and cause of each deviation (characterized as either startup, shutdown, control equipment problem, process problem, other known cause, or unknown cause, as applicable) and the corrective action taken; and

(B) An estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(iii) A summary of the total duration (in hours) of the deviations that occurred during the reporting period by cause (characterized as startup, shutdown, control equipment problems, process problems, other known causes, and unknown causes) and the cumulative duration of deviations during the reporting period across all causes both in hours and as a percent of the total source operating time during the reporting period.

(8) For each continuous monitoring system (including a CPMS or CEMS) used to comply with the emissions limitation or work practice standard in this subpart that was inoperable or out-of-control during any portion of the reporting period, you must include the information specified in paragraphs (b)(8)(i) through (vi) of this section. The requirement in this paragraph (b)(8) includes periods of startup, shutdown, and malfunction.

(i) A brief description of the continuous monitoring system, including manufacturer and model number.

(ii) The date of the latest continuous monitoring system certification or audit.

(iii) A brief description and the total operating time of the affected source or equipment that is monitored by the continuous monitoring system during the reporting period.

(iv) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(v) For each period for which the continuous monitoring system was inoperable or out-of-control during the reporting period, report:

(A) The date, start time, and duration (in hours) of the deviation;

(B) The type of deviation (inoperable or out-of-control); and

(C) The cause of deviation (characterized as monitoring system malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and unknown causes, as applicable) and the corrective action taken.

(vi) A summary of the total duration (in hours) of the deviations that occurred during the reporting period by cause (characterized as monitoring system malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and unknown causes) and the cumulative duration of deviations during the reporting period across all causes both in hours and as a percent of the total source operating time during the reporting period.

* * * * *

(e) *Compliance report submission requirements.* Prior to March 9, 2021, you must submit semiannual compliance reports to the Administrator as specified in § 63.13. Beginning on March 9, 2021, you must submit all subsequent semiannual compliance reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI, submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX

as described earlier in this paragraph (e). All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(f) *Performance test results submission requirements.* Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information.* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you claim some of the information submitted under paragraph (f)(1) or (2) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f)(1) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(g) *Performance evaluation results submission requirements.* Within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information.* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you claim some of the information submitted under paragraph (g)(1) or (2) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (g)(1) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(h) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as

soon as possible after the outage is resolved.

(i) *Claims of force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 12. Section 63.7752 is amended by:

■ a. Revising paragraph (a)(2);

■ b. Revising paragraphs (b)(2) and (4); and

■ c. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 63.7752 What records must I keep?

(a) * * *

(2) Records of required maintenance performed on the air pollution control and monitoring equipment as required by § 63.10(b)(2)(iii).

* * * * *

(b) * * *

(2) Records of the site-specific performance evaluation test plan required under § 63.8(d)(2) for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan as required under § 63.8(d)(2)(vi).

* * * * *

(4) Records of the date and time that each deviation started and stopped.

* * * * *

(d) You must keep the following records for each failure to meet an emissions limitation (including operating limit), work practice standard, or operation and maintenance requirement in this subpart.

(1) Date, start time, and duration of each failure.

(2) List of the affected sources or equipment for each failure, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Actions taken to minimize emissions in accordance with § 63.7710(a), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(e) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 13. Section 63.7761 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.7761 Who implements and enforces this subpart?

* * * * *

(c) The authorities that cannot be delegated to state, local, or tribal agencies are specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 14. Section 63.7765 is amended by adding in alphabetical order the definitions for "Cupola shutdown" and "Cupola startup" and revising the definitions for "Deviation" (including the undesignated paragraph following the definition) and "Off blast" to read as follows:

§ 63.7765 What definitions apply to this subpart?

* * * * *

Cupola shutdown means the period beginning when the last of the molten metal is tapped from the cupola's primary tap hole and ending when the cupola is cooled and the cupola is either banked or the bottom contents are removed ("bottom drop"). *Cupola shutdown* includes the following steps: slag and residual metal removal from secondary tap; cupola cooling; and cupola banking or bottom drop.

Cupola startup means the commencement of activities needed to take a banked cupola or a cupola that has had the bottom dropped back into melt production. *Cupola startup* includes the following steps: refractory curing, if needed; cupola bed preparation (during which the sand bed is preheated), if needed; coke bed preparation (during which coke is added to the cupola and lit); and initial metallics charging.

Deviation means any instance in which an affected source or an owner or operator of such an affected source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emissions limitation (including operating limits), work practice standard, or operation and maintenance requirement; or

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any iron and steel foundry required to obtain such a permit.

(3) A deviation is not always a violation. The determination of whether a deviation constitutes a violation of the standard is up to the discretion of the entity responsible for enforcement of the standards.

* * * * *

Off blast means those periods of cupola operation when the cupola is not actively being used to produce molten metal. *Off blast* conditions include

cupola startup and cupola shutdown. *Off blast* conditions also include idling conditions when the blast air is turned off or down to the point that the cupola does not produce additional molten metal.

* * * * *

■ 15. Table 1 to subpart EEEEE of part 63 is revised to read as follows:

TABLE 1 TO SUBPART EEEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART

[As stated in § 63.7760, you must meet each requirement in the following table that applies to you]

Citation	Subject	Applies to this subpart?	Explanation
63.1	Applicability	Yes	
63.2	Definitions	Yes	
63.3	Units and abbreviations	Yes	
63.4	Prohibited activities	Yes	
63.5	Construction/reconstruction	Yes	
63.6(a) through (d)	Compliance applicability and dates	Yes	
63.6(e)	Operating and maintenance requirements.	No	This subpart specifies operating and maintenance requirements.
63.6(f)(1)	Applicability of non-opacity emission standards.	No	This subpart specifies applicability of non-opacity emission standards.
63.6(f)(2) through (3)	Methods and finding of compliance with non-opacity emission standards.	Yes	
63.6(g)	Use of an alternative nonopacity emission standard.	Yes	
63.6(h)(1)	Applicability of opacity and visible emissions standards.	No	This subpart specifies applicability of opacity and visible emission standards.
63.6(h)(2) through (9)	Methods and other requirements for opacity and visible emissions standards.	Yes	
63.6(i) through (j)	Compliance extension and Presidential compliance exemption.	Yes	
63.7(a)(1) through (2)	Applicability and performance test dates	No	This subpart specifies applicability and performance test dates.
63.7(a)(3) through (4)	Administrators rights to require a performance test and force majeure provisions.	Yes	
63.7(b) through (d)	Notification of performance test, quality assurance program, and testing facilities.	Yes	
63.7(e)(1)	Performance test conditions	No	This subpart specifies performance test conditions.
63.7(e)(2) through (4), (f) through (h)	Other performance testing requirements	Yes	
63.8(a)(1) through (3), (b), (c)(1)(ii), (c)(2) through (3), (c)(6) through (8), (d)(1) through (2).	Monitoring requirements	Yes	
63.8(a)(4)	Additional monitoring requirements for control devices in § 63.11.	No	This subpart does not require flares.
63.8(c)(1)(i), (c)(1)(iii)	Operation and maintenance of continuous monitoring systems.	No	Not necessary in light of other requirements of § 63.8 that apply.
63.8(c)(4)	CMS requirements	No	This subpart specifies requirements for operation of CMS and CEMS.
63.8(c)(5)	Continuous opacity monitoring system (COMS) Minimum Procedures.	No	This subpart does not require COMS.
63.8(d)(3)	Quality control program	No	This subpart specifies records that must be kept associated with site-specific performance evaluation test plan.
63.8(e), (f)(1) through (6), (g)(1) through (4).	Performance evaluations and alternative monitoring.	Yes	This subpart specifies requirements for alternative monitoring systems.
63.8(g)(5)	Data reduction	No	This subpart specifies data reduction requirements.
63.9	Notification requirements	Yes	Except: for opacity performance tests, this subpart allows the notification of compliance status to be submitted with the semiannual compliance report or the semiannual part 70 of this chapter monitoring report.
63.10(a),(b)(1), (b)(2)(iii) and (vi) through (xiv), (b)(3), (c)(1) through (6), (c)(9) through (14), (d)(1) through (4), (e)(1) through (2), (f).	Recordkeeping and reporting requirements.	Yes	Additional records for CMS in § 63.10(c)(1)-(6), (9)-(15) apply only to CEMS.
63.10(b)(2)(i), (ii), (iv) and (v)	Recordkeeping for startup, shutdown, and malfunction events.	No	

TABLE 1 TO SUBPART EEEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

[As stated in § 63.7760, you must meet each requirement in the following table that applies to you]

Citation	Subject	Applies to this subpart?	Explanation
63.10(c)(7), (8) and (15)	Records of excess emissions and parameter monitoring exceedances for CMS.	No	This subpart specifies records requirements.
63.10(d)(5)	Periodic startup, shutdown, and malfunction reports.	No	
63.10(e)(3)	Excess emissions reports	No	This subpart specifies reporting requirements.
63.10(e)(4)	Reporting COMS data	No	This subpart data does not require COMS.
63.11	Control device requirements	No	This subpart does not require flares.
63.12	State authority and delegations	Yes	
63.13(a)	Reporting to EPA regional offices	Yes	Except: reports and notifications required to be submitted to CEDRI meet this obligation through electronic reporting.
63.13(b) through 63.15	Addresses of state air pollution control agencies. Incorporation by reference. Availability of information and confidentiality.	Yes	

Subpart ZZZZZ—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources

■ 16. Section 63.10885 is amended by revising paragraph (a)(1) to read as follows:

§ 63.10885 What are my management practices for metallic scrap and mercury switches?

(a) * * *

(1) *Restricted metallic scrap.* You must prepare and operate at all times according to written material specifications for the purchase and use of only metal ingots, pig iron, slitter, or other materials that do not include post-consumer automotive body scrap, post-consumer engine blocks, post-consumer oil filters, oily turnings, lead components, chlorinated plastics, or free liquids. For the purpose of this subpart, "free liquids" is defined as material that fails the paint filter test by EPA Method 9095B, "Paint Filter Liquids Test" (revision 2), November 2004 (incorporated by reference—see § 63.14). The requirements for no free liquids do not apply if the owner or operator can demonstrate that the free liquid is water that resulted from scrap exposure to rain. Any post-consumer engine blocks, post-consumer oil filters, or oily turnings that are processed and/or cleaned to the extent practicable such that the materials do not include lead components, mercury switches, chlorinated plastics, or free organic liquids can be included in this certification.

* * * * *

■ 17. Section 63.10890 is amended by revising paragraphs (c) introductory text, (d), (e)(3), (f), and (i) and adding paragraph (j) to read as follows:

§ 63.10890 What are my management practices and compliance requirements?

* * * * *

(c) You must submit a notification of compliance status according to § 63.9(h)(2)(i). You must send the notification of compliance status before the close of business on the 30th day after the applicable compliance date specified in § 63.10881. The notification must include the following compliance certifications, as applicable:

* * * * *

(d) As required by § 63.10(b)(1), you must maintain files of all information (including all reports and notifications) for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent 2 years of data shall be retained on site. The remaining 3 years of data may be retained off site. Such files may be maintained on microfilm, on a computer, on computer floppy disks, on magnetic tape disks, or on microfiche. Any records required to be maintained by this part that are submitted electronically via the EPA's Compliance and Emissions Data Reporting Interface (CEDRI) may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(e) * * *

(3) If you are subject to the requirements for a site-specific plan for mercury switch removal under § 63.10885(b)(1), you must maintain records of the number of mercury switches removed or the weight of mercury recovered from the switches and properly managed, the estimated number of vehicles processed, and an estimate of the percent of mercury switches recovered.

* * * * *

(f) You must submit semiannual compliance reports to the Administrator according to the requirements in § 63.10899(c), (f), and (g), except that § 63.10899(c)(5) and (7) do not apply.

* * * * *

(i) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

(j) You must comply with the following requirements of the general provisions in subpart A of this part: §§ 63.1 through 63.5; § 63.6(a), (b), and (c); § 63.9; § 63.10(a), (b)(1), (b)(2)(xiv), (b)(3), (d)(1) and (4), and (f); and §§ 63.13 through 63.16. Requirements of the general provisions not cited in the preceding sentence do not apply to the owner or operator of a new or existing affected source that is classified as a small foundry.

■ 18. Section 63.10896 is amended by adding paragraph (c) to read as follows:

§ 63.10896 What are my operation and maintenance requirements?

* * * * *

(c) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

■ 19. Section 63.10897 is amended by revising paragraphs (d)(1)(i), (d)(3) introductory text, and (g) to read as follows:

§ 63.10897 What are my monitoring requirements?

* * * * *

(d) * * *

(1) * * *

(i) The system must be certified by the manufacturer to be capable of detecting emissions of particulate matter at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

* * * * *

(3) In the event that a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete corrective action as soon as practicable, but no later than 10 calendar days from the date of the alarm. You must record the date and time of each valid alarm, the time you initiated corrective action, the corrective action taken, and the date on which corrective action was completed. Corrective actions may include, but are not limited to:

* * * * *

(g) In the event of an exceedance of an established emissions limitation (including an operating limit), you must restore operation of the emissions source (including the control device and associated capture system) to its normal or usual manner or operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the exceedance. You must record the date and time corrective action was initiated, the corrective action taken, and the date corrective action was completed.

* * * * *

■ 20. Section 63.10898 is amended by revising paragraph (c) to read as follows:

§ 63.10898 What are my performance test requirements?

* * * * *

(c) You must conduct each performance test under conditions representative of normal operations according to the requirements in Table 1 to this subpart and paragraphs (d) through (g) of this section. Normal operating conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 21. Section 63.10899 is amended is amended by:

■ a. Revising paragraphs (a), (b) introductory text, and (b)(2);

■ b. Adding paragraphs (b)(14) and (15);

■ c. Revising paragraph (c); and

■ d. Adding paragraphs (e) through (g).

The revisions and additions read as follows:

§ 63.10899 What are my recordkeeping and reporting requirements?

(a) As required by § 63.10(b)(1), you must maintain files of all information (including all reports and notifications) for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent 2 years of data shall be retained on site. The remaining 3 years of data may be retained off site. Such files may be maintained on microfilm, on a computer, on computer floppy disks or flash drives, on magnetic tape disks, or on microfiche. Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(b) In addition to the records required by § 63.10(b)(2)(iii) and (vi) through (xiv) and (b)(3), you must keep records of the information specified in paragraphs (b)(1) through (15) of this section.

* * * * *

(2) If you are subject to the requirements for a site-specific plan for mercury under § 63.10885(b)(1), you must maintain records of the number of mercury switches removed or the weight of mercury recovered from the switches and properly managed, the estimated number of vehicles processed, and an estimate of the percent of mercury switches recovered.

* * * * *

(14) You must keep records of the site-specific performance evaluation test plan required under § 63.8(d)(2) for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan as required under § 63.8(d)(2)(vi).

(15) You must keep the following records for each failure to meet an emissions limitation (including operating limit), work practice standard, or operation and maintenance requirement in this subpart.

(i) Date, start time, and duration of each failure.

(ii) List of the affected sources or equipment for each failure, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(iii) Actions taken to minimize emissions in accordance with § 63.10896(c), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(c) Prior to March 9, 2021, you must submit semiannual compliance reports to the Administrator according to the requirements in § 63.13. Beginning on March 9, 2021, you must submit all subsequent semiannual compliance reports to the EPA via the CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date report templates become available

will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI if you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (c). All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. The reports must include the information specified in paragraphs (c)(1) through (3) of this section and, as applicable, paragraphs (c)(4) through (9) of this section.

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If there were no deviations from any emissions limitations (including operating limits, pollution prevention management practices, or operation and maintenance requirements), a statement that there were no deviations from the emissions limitations, pollution prevention management practices, or operation and maintenance requirements during the reporting period.

(5) If there were no periods during which a continuous monitoring system (including a CPMS or continuous emissions monitoring system (CEMS) was inoperable or out-of-control as specified by § 63.8(c)(7), a statement that there were no periods during which the CPMS was inoperable or out-of-control during the reporting period.

(6) For each affected source or equipment for which there was a deviation from an emissions limitation (including an operating limit, pollution prevention management practice, or operation and maintenance requirement) that occurs at an iron and steel foundry during the reporting period, the compliance report must contain the information specified in paragraphs (c)(6)(i) through (iii) of this section. The requirement in this paragraph (c)(6) includes periods of startup, shutdown, and malfunction.

(i) A list of the affected source or equipment and the total operating time of each emissions source during the reporting period.

(ii) For each deviation from an emissions limitation (including an operating limit, pollution prevention management practice, or operation and maintenance requirement) that occurs at an iron and steel foundry during the reporting period, report:

(A) The date, start time, duration (in hours), and cause of each deviation (characterized as either startup, shutdown, control equipment problem, process problem, other known cause, or unknown cause, as applicable) and the corrective action taken; and

(B) An estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(iii) A summary of the total duration (in hours) of the deviations that occurred during the reporting period by cause (characterized as startup, shutdown, control equipment problems, process problems, other known causes, and unknown causes) and the cumulative duration of deviations during the reporting period across all causes both in hours and as a percent of the total source operating time during the reporting period.

(7) For each continuous monitoring system (including a CPMS or CEMS) used to comply with the emissions limitation or work practice standard in this subpart that was inoperable or out-of-control during any portion of the reporting period, you must include the information specified in paragraphs (c)(7)(i) through (vi) of this section. The requirement in this paragraph (c)(7) includes periods of startup, shutdown, and malfunction.

(i) A brief description of the continuous monitoring system, including manufacturer and model number.

(ii) The date of the latest continuous monitoring system certification or audit.

(iii) A brief description and the total operating time of the affected source or equipment that is monitored by the continuous monitoring system during the reporting period.

(iv) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(v) For each period for which the continuous monitoring system was inoperable or out-of-control during the reporting period, report:

(A) The date, start time, and duration (in hours) of the deviation;

(B) The type of deviation (inoperable or out-of-control); and

(C) The cause of deviation (characterized as monitoring system malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and unknown causes, as applicable) and the corrective action taken.

(vi) A summary of the total duration (in hours) of the deviations that occurred during the reporting period by cause (characterized as monitoring system malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and unknown causes) and the cumulative duration of deviations during the reporting period across all causes both in hours and as a percent of the total source operating time during the reporting period.

(8) Identification of which option in § 63.10885(b) applies to you. If you comply with the mercury requirements in § 63.10885(b) by using one scrap provider, contract, or shipment subject to one compliance provision and others subject to another compliance provision different, provide an identification of which option in § 63.10885(b) applies to each scrap provider, contract, or shipment.

(9) If you are subject to the requirements for a site-specific plan for mercury under § 63.10885(b)(1), include:

(i) The number of mercury switches removed or the weight of mercury recovered from the switches and properly managed, the estimated number of vehicles processed, an estimate of the percent of mercury switches recovered;

(ii) A certification that the recovered mercury switches were recycled at RCRA-permitted facilities; and

(iii) A certification that you have conducted periodic inspections or taken other means of corroboration as required under § 63.10885(b)(1)(ii)(C).

* * * * *

(e) Within 60 days after the date of completing each performance test required by this subpart, you must

submit the results of the performance test following the procedures specified in paragraphs (e)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information.* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI if you claim some of the information submitted under paragraph (e)(1) or (2) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (e)(1) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(f) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (f)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(g) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (g)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

■ 22. Section 63.10905 is amended by revising paragraph (c) introductory text and adding paragraph (c)(7) to read as follows:

§ 63.10905 Who implements and enforces this subpart?

* * * * *

(c) The authorities that cannot be delegated to state, local, or tribal agencies are specified in paragraphs (c)(1) through (7) of this section.

* * * * *

(7) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 23. Section 63.10906 is amended by revising the definition for "Deviation" to read as follows:

§ 63.10906 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source or an owner or operator of such an affected source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emissions limitation (including operating limits), management practice, or operation and maintenance requirement; or

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart

and that is included in the operating permit for any iron and steel foundry required to obtain such a permit.

* * * * *

■ 24. Table 3 to subpart ZZZZZ of part 63 is revised to read as follows:

TABLE 3 TO SUBPART ZZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO NEW AND EXISTING AFFECTED SOURCES CLASSIFIED AS LARGE FOUNDRIES

[As required in § 63.10900(a), you must meet each requirement in the following table that applies to you]

Citation	Subject	Applies to large foundry?	Explanation
63.1	Applicability	Yes.	
63.2	Definitions	Yes.	
63.3	Units and abbreviations	Yes.	
63.4	Prohibited activities	Yes.	
63.5	Construction/reconstruction	Yes.	
63.6(a) through (d)	Compliance applicability and dates	Yes.	
63.6(e)	Operating and maintenance requirements.	No	This subpart specifies operating and maintenance requirements.
63.6(f)(1)	Applicability of non-opacity emission standards.	No	This subpart specifies applicability of non-opacity emission standards.
63.6(f)(2) through (3)	Methods and finding of compliance with non-opacity emission standards.	Yes.	
63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
63.6(h)(1)	Applicability of opacity and visible emissions standards.	No	This subpart specifies applicability of opacity and visible emission standards.
63.6(h)(2) through (9)	Methods and other requirements for opacity and visible emissions standards.	Yes.	
63.6(i) through (j)	Compliance extension and Presidential compliance exemption.	Yes.	
63.7(a)(1) through (2)	Applicability and performance test dates.	No	This subpart specifies applicability and performance test dates.
63.7(a)(3) through (4)	Administrators rights to require a performance test and force majeure provisions.	Yes.	
63.7(b) through (d)	Notification of performance test, quality assurance program, and testing facilities.	Yes.	
63.7(e)(1)	Performance test conditions	No	This subpart specifies performance test conditions.
63.7(e)(2) through (4), (f) through (h)	Other performance testing requirements.	Yes.	
63.8(a)(1) through (3), (b), (c)(1)(ii), (c)(2) through (3), (c)(6) through (8), (d)(1) through (2).	Monitoring requirements	Yes.	
63.8(a)(4)	Additional monitoring requirements for control devices in § 63.11.	No.	
63.8(c)(1)(i), (c)(1)(iii)	Operation and maintenance of continuous monitoring systems.	No	Not necessary in light of other requirements of § 63.8 that apply.
63.8(c)(4)	Continuous monitoring system (CMS) requirements.	No.	
63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No.	
63.8(d)(3)	Quality control program	No	This subpart specifies records that must be kept associated with site-specific performance evaluation test plan.
63.8(e), (f)(1) through (6), (g)(1) through (4).	Performance evaluations and alternative monitoring.	Yes.	
63.8(g)(5)	Data reduction	No.	
63.9	Notification requirements	Yes.	Except for opacity performance tests.
63.10(a), (b)(1), (b)(2)(xii) through (xiv), (b)(3), (d)(1) through (4), (e)(1) through (2), (f).	Recordkeeping and reporting requirements.	Yes.	
63.10(b)(2)(i) through (xi)	Malfunction and CMS records	No.	
63.10(c)	Additional records for CMS	No	This subpart specifies records requirements.
63.10(d)(5)	Periodic startup, shutdown, and malfunction reports.	No.	
63.10(e)(3)	Excess emissions reports	No	This subpart specifies reporting requirements.
63.10(e)(4)	Reporting COMS data	No.	

TABLE 3 TO SUBPART ZZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO NEW AND EXISTING AFFECTED SOURCES CLASSIFIED AS LARGE FOUNDRIES—Continued

[As required in § 63.10900(a), you must meet each requirement in the following table that applies to you]

Citation	Subject	Applies to large foundry?	Explanation
63.11	Control device requirements	No.	
63.12	State authority and delegations	Yes.	
63.13(a)	Reporting to EPA regional offices	Yes	Except: reports and notifications required to be submitted to CEDRI meet this obligation through electronic reporting.
63.13(b) through 63.16	Addresses of state air pollution control agencies. Incorporation by reference. Availability of information and confidentiality. Performance track provisions.	Yes.	

[FR Doc. 2020–14143 Filed 9–9–20; 8:45 am]

BILLING CODE 6560–50–P

Environmental Protection Agency

40 CFR Part 63

[EPA–HQ–OAR–2017–0015; FRL–10009–60–OAR]

RIN 2060–AT08

National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Lime Manufacturing source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing periods of startup, shutdown, and malfunction (SSM). These final amendments include new provisions requiring electronic reporting. We are finalizing our proposed determination that the risks are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. We determined that there are no developments in practices, processes, or control technologies that necessitate revisions to the standards.

DATES: This final rule is effective on July 24, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 24, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0015. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Jim Eddinger, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5426; and email address: *eddinger.jim@epa.gov.* For specific information regarding the risk modeling methodology, contact James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, U.S. EPA Region 5 (Mail Code E–19), 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 353–6266; and email address: *ayres.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACI activated carbon injection
AEGL acute exposure guideline level
ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
CRA Congressional Review Act
D/F dioxins and furans
EPA Environmental Protection Agency
ERPG emergency response planning guideline
ESP electrostatic precipitator
FF fabric filter
FTIR Fourier-transform infrared spectroscopy
HAP hazardous air pollutants(s)
HCl hydrochloric acid
HF hydrofluoric acid
HI hazard index
HQ hazard quotient
IBR incorporation by reference
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OM&M operations, maintenance, and monitoring
PB-HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM particulate matter
POM polycyclic organic matter
PRA Paperwork Reduction Act
PS Performance Specification
PSH processed stone handling
REL recommended exposure limit
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTR Risk and Technology Review
SSM startup, shutdown, and malfunction
the Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standard

Background information. On September 16, 2019, the EPA proposed revisions to the Lime Manufacturing Plants NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Summary of Public Comments and Responses for the Lime Manufacturing Plants Residual Risk and Technology Review,* Docket ID No. EPA–HQ–OAR–2017–0015. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS[1] code
Lime Manufacturing Plants	32741, 33111, 3314, 327125

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/lime-manufacturing-plants-national-emission-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 22, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of

HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 48708, September 16, 2019.

B. What is the Lime Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Lime Manufacturing Plants NESHAP on January 5, 2004 (69 FR 394). The standards are codified at 40 CFR part 63, subpart AAAAA. The lime manufacturing industry consists of facilities that use a lime kiln to produce lime product from limestone by calcination. The source category covered by this MACT standard currently includes 35 facilities.

As promulgated in 2004, the NESHAP regulates HAP emissions from all new and existing lime manufacturing plants that are major sources, co-located with major sources, or are part of major sources. However, lime manufacturing plants located at pulp and paper mills or at beet sugar factories are not subject to the NESHAP. Other captive lime manufacturing plants, such as (but not limited to) those at steel mills and magnesia production facilities, are subject to the NESHAP. See 67 FR 78053 explaining the basis for these determinations. A lime manufacturing plant is defined as any plant which uses a lime kiln to produce lime product from limestone or other calcareous material by calcination. However, the NESHAP specifically excludes lime kilns that use only calcium carbonate waste sludge from water softening processes as the feedstock.

The NESHAP defines the affected source as follows: Each lime kiln and its associated cooler and each individual processed stone handling (PSH) operations system. The PSH operations system includes all equipment associated with PSH operations beginning at the process stone storage bin(s) or open storage pile(s) and ending where the process stone is fed into the kiln. It includes man-made process stone storage bins (but not open process stone storage piles), conveying system transfer points, bulk loading or unloading systems, screening operations, surge bins, bucket elevators, and belt conveyors. The materials processing operations associated with lime products, lime kiln dust handling, quarry or mining operations, limestone sizing operations, and fuels are not subject to the NESHAP. Finally, lime hydrators and cooler nuisance dust collectors are not included under the definition of affected source under the NESHAP.

The NESHAP established particulate matter (PM) emission limits for lime kilns, coolers, and PSH operations with stacks. The NESHAP also established opacity limits for PSH operations without stacks and for kilns equipped with electrostatic precipitators (ESP) and fabric filters (FF). For kilns equipped with wet scrubbers, the NESHAP established scrubbing liquid flow rate and exhaust gas stream pressure drop limits. PM serves as a surrogate for the non-volatile and semi-volatile metal HAP. The NESHAP also regulates opacity or visible emissions from most of the PSH operations, with opacity also serving as a surrogate for non-volatile and semivolatile HAP metals. Refer to section II.B of the proposal preamble (84 FR 48711, September 16, 2019) for additional information on the HAP emissions regulated by the NESHAP.

C. What changes did we propose for the Lime Manufacturing source category in our September 16, 2019, proposal?

On September 16, 2019, the EPA published a proposed rule in the **Federal Register** for the Lime Manufacturing Plants NESHAP, 40 CFR part 63, subpart AAAAA, that took into consideration the RTR analyses. In the proposed rule, we proposed:

- No revisions to the numerical emission limits based on the RTR;
- revisions to the SSM provisions of the NESHAP in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners and operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

• a requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which includes performance test reports); and
• IBR of alternative test methods and references.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Lime Manufacturing source category. This action also finalizes other changes to the NESHAP, including revising the SSM provisions of the NESHAP; a requirement for electronic submittal of notifications, semi-annual reports, compliance reports, and performance test reports; adding an alternative test method to EPA Method 320; and IBR of alternative test methods and references to updated alternative test methods. This action also reflects several changes to the September 2019 proposal in consideration of comments received during the public comment period described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Lime Manufacturing source category?

The EPA proposed no changes to 40 CFR part 63, subpart AAAAA NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from the source category are acceptable, the standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not making any revisions to the existing standards under CAA section 112(f), and we are readopting the existing standards.

B. What are the final rule amendments based on the technology review for the Lime Manufacturing source category?

We determined that there are no developments in practices, processes, and control technologies that necessitate revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

The EPA is finalizing, with some revisions, the proposed amendments to the Lime Manufacturing Plants NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that there must always be a CAA section 112 standard that applies. We are finalizing our proposal to eliminate the SSM exemption in this rule. As detailed in section IV.D of the proposal preamble (84 FR 48727, September 16, 2019), we proposed to require that the emission limitations apply at all times (see 40 CFR 63.7100(a)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

We have also revised Table 8 to subpart AAAAA of part 63 (the General Provisions applicability table) in several respects, as is explained in more detail below in section IV.C. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develops an SSM plan. We have also eliminated and revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposal and summarized below in section IV.C. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.7100(a) that the standards apply at all times. Refer to section IV.C of this preamble for a detailed discussion of these amendments.

The EPA is finalizing standards for startup and shutdown that differ in some respects from the startup and shutdown standards that were proposed. Changes from the proposal to the standards for periods of startup and shutdown being finalized reflect the EPA's re-evaluation of appropriate startup and shutdown standards in light of public comments. The EPA's rationale for those changes is discussed in section IV.C. below.

The proposed definition of "Startup" has been revised by changing the wording from "lime product" to "on-specification lime product" and adding an alternate ending to startup. Commenters stated that the term "lime product" is not specific enough and that off-specification product is discharged almost simultaneously upon startup. In addition, the EPA is not finalizing the proposed work practices for periods of startup. For periods of startup, the EPA has instead established opacity emission limits for kilns equipped with FFs or ESPs. The EPA is not establishing different standards for kilns equipped with wet scrubbers during periods of startup and such kilns must comply with the same standard that apply at all other times. Also, during shutdown, kilns equipped with FFs, ESPs, or wet scrubbers must comply with the same standards that apply during normal operation. (See Table 2 of 40 CFR part 63, subpart AAAAA—Startup and Shutdown Emission Limits).

Further, the EPA is not finalizing different standards for malfunctions and sources must meet applicable standards during periods of malfunction. As discussed in the September 16, 2018, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. Refer to section IV.D of the proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions.

D. What other changes have been made to the NESHAP?

Consistent with the proposal, the EPA is finalizing the electronic reporting requirements, specifically that owners or operators of lime manufacturing plants submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

We are finalizing an alternative test method to EPA Method 320 and incorporating several test methods by reference, as discussed further in section IV.E of this preamble. We are also finalizing additional changes that address technical and editorial corrections, as proposed and as described in section IV.F of this preamble.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on July 24, 2020. The compliance date for the revised requirements for affected sources that commenced construction or reconstruction on or before September 16, 2019, is January 20, 2021, with the exception of the vacated SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1). We are revising

Table 9 of 40 CFR part 63, subpart AAAAA to clarify that for all affected sources, these exemptions do not apply given the court vacatur in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). The compliance date for the revised requirements for affected sources that commence construction or reconstruction after September 16, 2019, is July 24, 2020 or upon initial startup, whichever is later. We are finalizing changes, as proposed, that would impact ongoing compliance requirements for 40 CFR part 63, subpart AAAAA. As discussed elsewhere in this preamble, we are finalizing the requirement that performance test results, performance evaluation reports, and the semiannual reports using the new template be submitted electronically. We are also finalizing changes to the requirements for SSM. For example, we are removing the exemption from the requirements to meet the standard during SSM periods and removing the requirement to develop and implement an SSM plan, as proposed. Our experience with similar industries that have been required to convert reporting mechanisms, install necessary hardware, install necessary software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters, shows that a time period of a minimum of 90 days, and more typically, 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the required standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is finalizing the requirement that existing affected sources be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date.

IV. What is the rationale for our final decisions and amendments for the Lime Manufacturing source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the Lime Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(f) for the Lime Manufacturing source category?

Pursuant to CAA section 112(f), the EPA conducted a risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 16, 2019, proposed rule for the Lime Manufacturing source category (84 FR 48708). The results of the risk assessment are presented briefly in Table 1 of this preamble and in the risk report titled *Residual Risk Assessment for the Lime Manufacturing Plants Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* and sections III and IV of the proposal preamble (84 FR 48708, September 16, 2019) available in the docket for this action.

TABLE 1—INHALATION RISK ASSESSMENT SUMMARY FOR LIME MANUFACTURING [1] SOURCE CATEGORY

Number of facilities [2]	Maximum individual cancer risk (in 1 million) [3] based on . . .		Population at increased risk of cancer ≥ 1-in-1 million based on . . .		Annual cancer incidence (cases per year) based on . . .		Maximum chronic noncancer TOSHI [4] based on . . .		Maximum screening acute noncancer HQ [5] based on actual emissions level
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	
35	1	2	12	450	0.001	0.003	0.04	0.05	0.6 (REL)

[1] Based on actual and allowable emissions.
[2] Number of facilities evaluated in the risk assessment. Includes 35 operating facilities subject to 40 CFR part 63, subpart AAAAA.
[3] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[4] Maximum target organ-specific hazard index (TOSHI). The target organ with the highest TOSHI for the Lime Manufacturing source category is the respiratory system.
[5] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. The acute HQ shown was based upon the lowest acute 1-hour dose-response value, the recommended exposure limit (REL) for elemental mercury. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the chronic inhalation cancer risk assessment, based on actual emissions, show the estimated maximum individual cancer risk (MIR) posed by the 35 facilities is 1-in-1 million, with metals, aldehydes, and organic HAP emissions from the lime kiln and cooler exhaust as the major contributors to the risk. The total estimated cancer incidence based on actual emission levels is 0.001 excess cancer cases per year, or one excess case every 1,000 years. About 12 people are estimated to have cancer risks greater than or equal to 1-in-1 million based on actual emissions from HAP emitted from the 35 facilities in this source category. The maximum chronic noncancer hazard index (HI) for the source category is estimated to be less than 1 (0.04) based on actual emissions of hydrochloric acid (HCl), nickel compounds, and acrolein emitted from lime kiln and cooler exhaust. No one is estimated to have a TOSHI greater than 1 based on actual emissions.

The EPA also evaluated the cancer risk at the maximum emissions allowed by the MACT standard, or ''MACT-allowable emissions.'' Risk results from the inhalation risk assessment using the MACT-allowable emissions indicate that the cancer MIR is 2-in-1 million with metals, aldehydes, and organic HAP emissions from lime kiln and cooler exhaust driving the risks, and that the maximum chronic noncancer TOSHI value is 0.05 with HCl, nickel compounds, and acrolein emissions from lime kiln and cooler exhaust driving the TOSHI. The total cancer incidence estimated based on allowable emissions from this source category is 0.003 excess cancer cases per year or one excess case every 333 years. Based on MACT-allowable emission rates, approximately 450 people are estimated to have cancer risks above 1-in-1 million. No people are estimated to have a noncancer HI above 1 based on allowable emissions.

For the Lime Manufacturing source category, the maximum acute HQ is 0.6 based on the REL, driven by actual emissions of elemental mercury. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures.

We also conducted a multipathway screening assessment for the source category, and the results of the screening assessment are presented in the risk report titled *Residual Risk Assessment for the Lime Manufacturing Plants Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* and section IV of the proposal preamble (84 FR 48708, September 16, 2019) available in the docket for this action. A screening value is not an estimate of the cancer risk or a noncancer HQ (or HI). Rather, a screening value represents a high-end estimate of what the risk or HQ may be. For this source category the highest screening values were from mercury emissions, with a Tier 2 screening value of 5 and a Tier 3 screening value of 2 for this noncarcinogen. We are confident that if a refined multipathway risk assessment was conducted, the HQ for mercury would be lower than 2. Further details on the Tier 3 screening assessment can be found in Appendix 11 of *Residual Risk Assessment for the Lime Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule.* Dioxin and arsenic emissions resulted in a Tier 2 cancer screening value of 20, which means that we are confident that the multipathway cancer risk is lower than 20-in-1 million.

The EPA has determined that it is not necessary to go beyond the Tier 3 assessment for mercury (to a site-specific assessment) or beyond the Tier 2 cancer screening assessment. As explained above, the mercury screening value of 2 is a high-end estimate of what the risk or hazard may be and can be interpreted to mean that we are confident that the HQ would be lower than 2. Similarly, we are confident that the excess cancer risk is less than 20-in-1 million, and evaluation under Tier 3 or a site-specific assessment would further reduce the estimated risk. Further, risk results from four site-specific mercury assessments the EPA has conducted for four RTR source categories resulted in noncancer HQs that range from 50 times to 800 times lower than the respective Tier 2 mercury screening value for those facilities (refer to Docket ID No. EPA–HQ–OAR–2017–0015 for a copy of these reports).[2] Based on our review of these analyses, we expect if we were to perform a site-specific assessment for the Lime Manufacturing source category, the mercury HQ would be at least a one order of magnitude less than the Tier 2 non-cancer screening value for mercury. Thus, the EPA is confident that the mercury HQ would be less than 1, if further refined to incorporate enhanced site-specific analyses such as improved model boundary identification with improved soil/water run-off calculations and AERMOD deposition outputs used in the TRIM.FaTE model.

In evaluating the potential for multipathway effects from emissions of lead, the EPA compared modeled annual lead concentrations to the secondary National Ambient Air Quality Standards (NAAQS) level for lead (0.15 milligram per cubic meter (mg/m^3), arithmetic mean concentration over a 3-month period). The highest annual average lead concentration, 0.0007 mg/m^3, is far below the NAAQS level for lead, indicating a low potential for multipathway impacts.

The EPA also conducted an environmental risk screening assessment for the Lime Manufacturing source category for the following pollutants: Arsenic, cadmium, dioxins and furans (D/F), HCl, hydrogen fluoride (HF), lead, mercury (methyl mercury and mercuric chloride), and polycyclic organic matter (POM). In the Tier 1 screening analysis for HAP known to be persistent and bio-accumulative in the environment (PB–HAP) (other than lead, which was evaluated differently), arsenic, cadmium, and POM emissions had no exceedances of any of the ecological benchmarks evaluated. D/F emissions had a Tier 1 exceedance at 31 facilities for a surface soil benchmark by a maximum screening value of 30. Divalent mercury emissions had Tier 1 exceedances for the following benchmarks: Sediment threshold level (one facility), surface soil threshold level—plant communities (25 facilities), and surface soil threshold level—invertebrate communities (32 facilities) by a maximum screening value of 20. Methyl mercury emissions had Tier 1 exceedances for the following benchmarks: Fish (avian/piscivores) NOAEL—Merganser (one facility), surface soil no-observed-adverse-effect-level (NOAEL) for mammalian insectivores—shrew (13 facilities), and surface soil NOAEL for avian ground insectivores—woodcock (33 facilities) by a maximum screening value of 40. A Tier 2 screening analysis was performed for D/F, divalent mercury, and methyl mercury emissions. In the Tier 2 screening analysis, there were no exceedances of any of the ecological benchmarks evaluated for any of the pollutants. For lead, we did not estimate any exceedances of the secondary lead NAAQS. For HCl and HF, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl and HF (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

An assessment of risk from facility-wide actual emissions was performed to provide context for the source category risks. The maximum lifetime individual cancer risk posed by the 35 facilities, based on facility-wide emissions, is 1-in-1 million (estimated for three facilities), with arsenic, chromium (VI) compounds, and nickel emissions from fugitive PSH operations driving the risk.

[2] EPA Docket records: Appendix 11 of the *Residual Risk Assessment for the Taconite Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule;* Appendix 11 of the *Residual Risk Assessment for the Integrated Iron and Steel Source Category in Support of the Risk and Technology Review 2019 Proposed Rule;* Appendix 11 of the *Residual Risk Assessment for the Portland Cement Manufacturing Source Category in Support of the 2018 Risk and Technology Review Final Rule;* and Appendix 11 of the *Residual Risk Assessment for the Coal and Oil-Fired EGU Source Category in Support of the 2018 Risk and Technology Review Proposed Rule.*

The total estimated cancer incidence from facility-wide emissions is 0.004 excess cancer cases per year, or one case in every 250 years. Approximately 30 people are estimated to have cancer risk equal to 1-in-1 million from facility-wide emissions. The maximum facility-wide chronic noncancer TOSHI is estimated to be less than 1 (0.4), mainly driven by emissions of HCl from a facility-wide fugitive area source.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The results of the Lime Manufacturing source category demographic analysis indicated that emissions from the source category expose approximately 12 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population indicated that three of the 10 demographic groups (White, African American and people below the poverty level) that are living within 50 km of facilities in the source category exceeded the corresponding national percentage for the same demographic groups. The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Source Category Operations,* available in the docket for this action.

The EPA weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from this source category are acceptable. We then considered whether the NESHAP provides an ample margin of safety to protect public health, and whether more stringent standards were necessary to prevent an adverse environmental effect, by taking into consideration costs, energy, safety, and other relevant factors. In determining whether the standards provide an ample margin of safety to protect public health, we examined the same risk factors that we investigated for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that the 2004 Lime Manufacturing Plants NESHAP requirements provide an ample margin of safety to protect public health. Based on the results of our environmental risk screening assessment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the Lime Manufacturing source category?

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed.

3. What key comments did we receive on the risk review, and what are our responses?

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for Lime Manufacturing Plants Residual Risk and Technology Review,* which is available in the docket for this action. The EPA received comments in support of and opposed to the proposed risk review and our determination that no revisions were warranted under CAA section 112(f)(2). Key comments and responses are discussed below.

Comment: One commenter stated that there are substantial health threats from the lime manufacturing industry. The commenter stated that it is unlawful, arbitrary and capricious for the EPA to do nothing to reduce any of these emissions or resulting health threats from lime manufacturing. The commenter stated that the EPA may not lawfully or rationally find health risks to be "acceptable" under CAA section 112(f)(2) when the record shows the opposite, and the EPA has ignored significant health impacts. The commenter stated that the EPA's proposal is incomplete and based on analyses that underestimate and ignore the health risks from the toxic pollution that lime manufacturing facilities emit into communities.

Response: The EPA disagrees with the comment. Results of the EPA's risk assessment for the Lime Manufacturing source category indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are less than or equal to 2-in-1 million, well below the presumptive limit of acceptability of 100-in-1 million. The actual and allowable inhalation noncancer risks to the individual most exposed are below a HQ of 1. Based on the conservative nature of the multipathway screens, we find the Tier 2 screening values (D/F and arsenic) for cancer and Tier 3 noncancer screening values (cadmium and mercury) acceptable for the Lime Manufacturing source category. This determination is based upon the upper-bound cancer screening values of 20 being significantly below an excess cancer risk of 100-in-1 million and on results from facility-specific assessments for mercury performed for other source categories. Based upon this experience, we conclude that if we were to conduct a site-specific risk assessment for the Lime Manufacturing source category, the risk would result in a HQ value of 1 or lower. For this reason and considering the conservative nature of the multipathway exposure screening scenario, no further analysis was performed. In our ample margin of safety analysis, we investigated available emissions control options that might reduce the risk from the source category. We considered this information along with all of the health risks and other health information considered in our determination of risk acceptability. As part of the proposed ample margin of safety analysis, we considered activated carbon injection (ACI) systems, which have not been used or demonstrated on lime kilns, for controlling D/F and mercury emissions. In both cases, considering the potential negligible reductions in emissions and the results of our risk analysis, we concluded that the use of ACI would have little effect on the source category risks. Due to the already low risk, along with the substantial costs associated with more stringent standards, we determined that additional emissions controls for this source category were not required to provide an ample margin of safety to protect public health. We have retained this determination in the final rule. We note that the commenter did not provide detail or supporting documentation for their comment.

Comment: A commenter urged the EPA to set stronger standards to bring further protection to communities from lime manufacturing facilities. The commenter requested that the EPA consider the people exposed to these facilities' emissions and affected by its proposed decision not to strengthen the emission limits. The commenter urged the EPA to exercise its legal authority to end unacceptable risk for exposed communities and set the "ample margin of safety to protect public health" and prevent an adverse environmental effect, instead of attempting to avoid the science and the health threats shown in the record.

Response: The risk assessment demonstrated that health risks due to air emissions from lime manufacturing sources are acceptable and after considering available control options

and all available risk information, the EPA concluded that the current standards provide an ample margin of safety to protect public health. These conclusions support the EPA's decision to not revise the existing emission limits. However, we have amended the final rule to make corrections to certain provisions and have amended provisions to clarify their intent and these revisions will result in improved monitoring and compliance with and implementation of the rule. In addition, the elimination of the SSM exemption may result in lower HAP emissions.

Comment: A commenter stated that the EPA underestimated the health threats to children and from early-life exposure by ignoring increased risk in childhood and from prenatal exposure.

Response: The EPA disagrees with the comment that the risk assessment for this source category does not consider the groups that may be most at-risk (*e.g.,* children). When the EPA derives exposure reference concentrations and unit risk estimates for metal HAP, it also considers the most sensitive populations identified in the available literature and, importantly, these are the values used in our risk assessments.

We acknowledge that population subgroups, including children, may have a potential for risk that is greater than the general population due to greater relative exposure and/or greater susceptibility to the toxicant. The assessments we undertake to estimate risk account for this potential vulnerability, for example; the EPA includes exposure from D/F through ingestion of breast-milk for infants less than 1 year of age. The EPA also estimates age-specific risks to account for the higher sensitivity of developing children to mutagens. With respect to inhalation exposure, the risk assessments we perform implicitly account for this greater potential for exposure by assuming lifetime exposure, in which populations are conservatively presumed to be exposed to airborne concentrations at their residence continuously, 24 hours per day for a full lifetime, including childhood. With regard to children's potentially greater susceptibility to noncancer toxicants, the assessments rely on the EPA's (or comparable) hazard identification and dose-response values that have been developed to be protective for all subgroups of the general population, including children.

For example, a review of the chronic reference value process concluded that the EPA's reference concentration (RfC) derivation processes adequately considered potential susceptibility of different subgroups with specific consideration of children, such that the resultant RfC values pertain to the full human population, ''including sensitive subgroups,'' a phrase which is inclusive of childhood.[3] With respect to cancer, the EPA uses the age-dependent adjustment factor approach referred to by the commenter but limits the use of those factors only to carcinogenic pollutants that are known to act via mutagenic mode of action (MOA), in contrast to the California Office of Environmental Health Hazard Assessment approach, which uses them across the board for all carcinogens regardless of MOA. In lieu of chemical-specific data on which age or life-stage specific risk estimates or potencies can be determined, default age dependent adjustment factors can be applied when assessing cancer risk for early-life exposures to chemicals that cause cancer through a mutagenic MOA. With regard to other carcinogenic pollutants for which early-life susceptibility data are lacking, it is the EPA's long-standing science policy position that use of the linear low-dose extrapolation approach (without further adjustment) provides adequate public health conservatism in the absence of chemical-specific data indicating differential early-life susceptibility or when the mode of action is not mutagenicity. The basis for this methodology is provided in the 2005 Supplemental Guidance.[4]

The estimated risks must be considered in the context of the full set of assumptions used for this risk assessment. Our unit risk estimates for HAP are considered a plausible upper-bound estimate with an appropriate age dependent adjustment; actual potency is likely to be lower and could be as low as zero. Our chronic noncancer reference values have been derived considering the potential susceptibility of different subgroups, with specific consideration of children.

Comment: One commenter stated that the EPA underestimated health threats to communities exposed to multiple sources by neglecting to add factors to account for the increased risks caused by such exposure. The commenter stated that the EPA underestimated the cancer, chronic noncancer, and acute health risks by using modeling assumptions that ignore real-world exposures, underestimating risk from chemicals such as benzene and lead due to the EPA's refusal to follow the best available science, and neglecting to aggregate cumulative risks.

Response: The EPA's chronic risk assessment modeling accounts for cumulative cancer risks from emitted carcinogens and for pollutants that have similar modes of action or (where this information is absent) that affect the same target organ, we aggregated the HQs. This process creates, for each target organ, a TOSHI, defined as the sum of HQs for individual HAP that affect the same organ or organ system.

The modeling conducted also includes the effects of multiple facilities that may be in close proximity when estimating concentration and risk impacts at each block centroid. When evaluating the risks associated with a particular source category, we combined the impacts of all facilities within the same source category and assessed chronic exposure and risk for all census blocks with at least one resident (*i.e.,* locations where people may reasonably be assumed to reside rather than receptor points at the fenceline of a facility). The MIR considers the combined impacts of all sources in the category that may be in close proximity. This approach is similar for those facilities within the source category that have an associated or cumulative impact on neighboring lakes as it relates to assessing multi-pathway impacts for each of the PB–HAP. Background risks or contributions to risk from sources outside the source category under review could be one of the relevant factors considered in the ample margin of safety determination, along with cost and economic factors, technological feasibility, and other factors. Background risks and contributions to risk from sources outside the facilities under review were not considered in the ample margin of safety determination for this source category, mainly because of the significant uncertainties associated with emissions estimates for such sources. Our approach here is consistent with the approach we took regarding this issue in the Hazardous Organic NESHAP (HON) RTR (71 FR 76603, December 21, 2006), which the Court upheld in the face of claims that the EPA had not adequately considered background (*NRDC* v. *EPA,* 529 F.3d 1077 (D.C. Cir. 2008)).

Comment: A commenter stated that the EPA has ignored all multipathway cancer and noncancer chronic health risks that result when persistent or bioaccumulative pollutants emitted by lime manufacturing facilities fall into the Great Lakes, bays, rivers, and other large waterbodies. The commenter

[3] USEPA, 1994. Methods for derivation of inhalation reference concentrations and application of inhalation dosimetry. EPA/600/8–90/066F; *https://www.epa.gov/sites/production/files/2014-11/documents/rfc_methodology.pdf.*

[4] USEPA, 2005b. Supplemental guidance for assessing early-life exposure to carcinogens. EPA/630/R–03003F. *https://www3.epa.gov/ttn/atw/childrens_supplement_final.pdf.*

stated that by excluding all impacts from deposition in these waterbodies, the EPA ignored both health threats and ecological threats, and violated its legal obligation to assess health and environmental risk and reduce these hazards as the statute directs.

Response: Very large lakes and bays (*i.e.,* those larger than 100,000 acres) are not considered because their large volumes significantly dilute air deposition from point sources. Such large lakes, including the Great Lakes, the Great Salt Lake, Lake Okeechobee, Lake Pontchartrain, Lake Champlain, Green Bay, and Galveston Bay also dilute contaminants in the vast biomass of fish in the large aquatic food webs. Contaminants derived from emissions to air by a point source would be distributed among populations of millions of fish resulting in negligible increases in fish tissue concentrations attributable to the point source. Also, very large lakes are rare (only 35 such lakes exist in the conterminous United States). Moreover, for facilities near large lakes, there usually are other, smaller lakes that the EPA does consider for which contaminant dilution would be lower, and, therefore, for which human health and ecological risks would be higher. Thus, the EPA does model exposure via fish consumption for populations that are near large lakes in a manner that generally will be more health protective than modeling the very large lake. The EPA also does not model lakes adjacent or connected to a river or saltwater body (estuaries and rivers) or bays; these waterbodies are likely to have high outflow with limited chemical retention. Less retention time for these types of waterbodies result in significantly lower media concentrations when compared to lakes.

4. What is the rationale for our final approach and final decisions for the risk review?

The EPA evaluated all of the comments on the EPA's risk review and determined that no changes to the review are needed. In the proposed rule, we proposed that the risks from the Lime Manufacturing source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. For the reasons explained in the proposal and in our responses to public comments and pursuant to CAA section 112(f)(2), we are finalizing our risk review as proposed.

B. Technology Review for the Lime Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Lime Manufacturing source category?

Pursuant to CAA section 112(d)(6), the EPA conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies that would necessitate revision to the existing emission standards for the Lime Manufacturing source category. No cost-effective developments in practices, processes, or control technologies were identified in our technology review to necessitate revisions to the PM or opacity standards, which are both used as a surrogate for HAP metals, standards. More information concerning our technology review is in the memorandum titled *Technology Review for the Lime Manufacturing Source Category,* which is in the docket for this action, and in the preamble to the proposed rule (84 FR 48726).

2. How did the technology review change for the Lime Manufacturing source category?

The technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received comments in support of the proposed determination from the technology review that no revisions were necessary under CAA section 112(d)(6). We also received comments asserting that the technology review was inadequate for a variety of reasons, primarily because of failure to consider control technologies for unregulated HAP emissions.

Comment: A commenter stated the EPA does not discuss or perform any review under CAA section 112(d)(6) for all emitted HAP. The commenter noted that the EPA failed to complete a technology review for HCl, mercury, D/F, and organic HAP. The commenter stated that the EPA cannot determine whether developments in pollution control make it "necessary" to revise the emission standards without determining what developments have occurred for these HAP. The commenter stated that the fact that these HAP are emitted from the source category requires the EPA to evaluate them pursuant the technology review.

Response: Section 112(d)(6) of the CAA requires the EPA to "review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section . . . ." The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to review the original emission standards already promulgated and to revise those standards as necessary, taking into account developments in practices, processes, and control technologies. Under this reading, section 112(d)(6) of the CAA does not impose upon the Agency any obligation to promulgate new emission standards or expand the scope of an existing regulation.[5] Accordingly, we disagree with the commenter that CAA section 112(d)(6) requires a technology review for HCl, mercury, D/F, and organic HAP. The EPA notes that we have completed our statutory requirements under CAA section 112(d)(6) in reference to the promulgated standards.

Any new MACT standards would not be established pursuant to CAA section 112(d)(6), but instead would be established under CAA sections 112(d)(2) and (3) or CAA section 112(h). Establishing emissions standards under CAA sections 112(d)(2) and (3) or 112(h) involves a different analytical approach than reviewing emissions standards under CAA section 112(d)(6).

Comment: One commenter stated that there are multiple HAP emitted from the Lime Manufacturing source category that have no numeric emission standards, including HCl, organic HAP (*e.g.,* formaldehyde, styrene), mercury, and D/F. The commenter stated that CAA section 112(d) requires limits for each HAP that a source category emits and that CAA section 112(d)(6) requires the EPA to review and revise its existing emission standards "as necessary." The commenter stated that when the EPA reviewed the Lime Manufacturing source category and found that they lack emission limits for emitted HAP, it is necessary under CAA section 112(d)(6) to revise the standard (*i.e.,* set limits for these HAP). The commenter noted that the EPA's failure to set emission limits for these HAP causes public suffering from uncontrolled exposure to these HAP.

The commenter cited prior court rulings that found that the Agency has a "clear statutory obligation to set emission standards for each listed HAP." [*National Lime Ass'n,* 233 F.3d

[5] On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN* v. *EPA,* 955 F. 3d. 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

625, 634 (D.C. Cir. 2000) and *Sierra Club* v. *EPA,* 479 F.3d 875, 883 (D.C. Cir. 2007)] The commenter cited prior rulemakings where the EPA has acknowledged this issue and has subsequently set emission limits for pollutants without standards.

The commenter noted that the Lime Manufacturing Plants RTR clearly demonstrates that these pollutants are emitted from the source category, but that the EPA has not acknowledged its obligation to set limits on these uncontrolled HAP and has not explained why it is not "necessary" to revise the existing standards to set limits for these HAP. The commenter stated that the EPA has emissions data from at least some sources, and it must complete its obligation to set a limit for these HAP.

The commenter stated that it is unlawful and arbitrary for the EPA not to set limits for these HAP in this rulemaking. The commenter stated that if the EPA does not do this, it will fail to complete the review and revision rulemaking as CAA section 112(d)(6) requires, will violate the Court's order in *California Communities Against Toxics* v. *Pruitt,* 241 F. Supp. 3d 199 (D.C. 2017), and will also issue a final rule that is unlawful and inadequate.

Response: CAA section 112(d)(6) requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. We do not read section CAA section 112(d)(6) as supporting the commenter's assertion that the EPA must establish new standards for unregulated emission points or pollutants as part of a technology review of the existing standards (but see footnote 5). The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary taking into account developments in practices, processes, and control technologies. The EPA does not read CAA section 112(d)(6) as directing the Agency, as part of or in conjunction with the mandatory 8-year technology review, to develop new emission standards to address HAP or emission points for which standards were not previously promulgated.

When the EPA established standards for previously unregulated emissions, we did not establish those initial standards pursuant to CAA section 112(d)(6) but instead established the standards under one of the provisions that govern initial standard setting—CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA sections 112(d)(4) or 112(h). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for Lime Manufacturing Plants Residual Risk and Technology Review,* which is available in the docket for this action.

4. What is the rationale for our final approach for the technology review?

The EPA evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to necessitate revisions to the standards. More information concerning our technology review can be found in the memorandum titled *Technology Review for the Lime Manufacturing Source* Category, which is in the docket for this action. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

C. SSM for the Lime Manufacturing Source Category

1. What did we propose for the Lime Manufacturing source category?

The EPA proposed amendments to the Lime Manufacturing Plants NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times or that are unnecessary or redundant in the absence of an SSM exemption. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 48708, September 16, 2019).

2. How did the SSM provisions change from proposal for the Lime Manufacturing source category?

The EPA is finalizing the SSM provisions with the following changes from the proposal:

- Replacing the proposed startup work practice standards for kilns and coolers equipped with a FF or ESP with opacity emission standards.
- Replacing the proposed startup work practice standards for kilns and coolers equipped with a wet scrubber with a requirement to meet standards applicable during normal operation.
- Revising the definition of "Startup" to add "on-specification" prior to "lime product" and to add an alternate ending to startup.
- Adding testing requirements for determining when lime product is deemed on-specification.

With respect to the revisions to the proposed startup standards, the EPA is finalizing standards for startup that differ from what we proposed based on a re-evaluation of the need for work practice standards. The EPA proposed work practice standards for kilns equipped with wet scrubbers, FFs, and ESPs. However, the final rule requires kilns and coolers that are equipped with ESPs or FFs to meet numerical opacity limits and kilns and coolers equipped with wet scrubbers to meet the scrubbing liquid flow rate requirements that apply during normal operations. The EPA's determination in the proposed rule (84 FR 48727) that work practice standards were appropriate was based on a finding that the application of measurement methodology for PM emissions was impracticable because the test methods required for compliance are to be conducted under steady-state conditions which are difficult to achieve during startup. In addition to the reference test method (EPA Method 5), we considered PM emission monitors, which also requires steady-state conditions. However, based on comments claiming that the EPA has not shown a lack of practicable measurement methodology for startup periods, we reconsidered the issue. The 2004 final NESHAP rule established opacity as an emission standard limiting PM emissions. We are not aware of factors that would prevent the monitoring of opacity during startup periods.

For kilns equipped with FFs or ESPs, 40 CFR part 63, subpart AAAAA allows compliance with opacity standards to ensure PM is controlled between stack tests.[6] In this rule, for periods of startup, the EPA is requiring kilns equipped with FFs or ESPs to meet the 15-percent opacity limit that applies during normal operation averaged over the period of startup. The EPA has determined that a longer averaging time is appropriate for startup periods since we are aware that emissions during startup can be variable in light of the sequence of events that

[6] The EPA notes that under 40 CFR part 63, subpart AAAAA stack testing is not permitted during startup and shutdown. As proposed, this rule replaces the reference in Table 9 to 40 CFR 63.7(e)(1) (which prohibits performance testing during periods of startup and shutdown) with identical language at 40 CFR 63.7112(c)).

occur during startup of a kiln. Thus, the longer averaging time being finalized is to account for this variability that could result in spikes in opacity during the startup period. During startup, even the best performing units are constantly making adjustments in terms of fuel flow and combustion air flow rate. Every increase in fuel rate or feed rate requires the source to adjust air flow to the proper level. Each adjustment can lead to a spike in opacity. Accounting for such variability in setting emission standards is consistent with the CAA case law. *See, United States Sugar Corp.* v. *EPA,* 830 F.3d 579, 632 (D.C. Cir. 2016) ("We have held, see *Mossville Envtl. Action Now* v. *EPA,* 370 F.3d 1232, 1242 (D.C. Cir. 2004), and recently reaffirmed, see *NACWA,* 734 F.3d at 1133–34, that the EPA can consider this variability when setting MACT floors."). As proposed, the EPA is not establishing different shutdown standards for kilns equipped wth FFs or wet scrubbers and, thus, such kilns must meet otherwise applicable limits during shutdown.

3. What key comments did we receive on the SSM provisions, and what are our responses?

The EPA received 16 comments related to our proposed revisions to the SSM provisions. Commenters generally supported the proposed removal of the SSM exemptions but disagreed with either the proposing of work practice standards for the startup period or certain aspects of the proposed work practice standards. We evaluated the comments and determined that changes to the proposed SSM provisions are warranted. A summary of these comments and our responses are located in the memorandum titled *Summary of Public Comments and Responses for Lime Manufacturing Plants Residual Risk and Technology Review,* which is in the docket for this action.

Comment: Commenters stated that the EPA's work practice standard requiring all kilns to start and operate on "clean fuels" until the kiln reaches a temperature of 1200 degrees Fahrenheit is unnecessary, not based on information in the administrative record, inconsistent with processes required to safely and properly commence kiln operation, and, for some kilns, is impractical based on the realities of operating kilns in the lime industry.

The commenters stated that for operational and safety reasons, electrostatic precipitators (ESP) cannot be started immediately to effectively remove PM upon startup of the kiln. Therefore, the clean fuel work practice for startup makes sense for ESP-equipped kilns. The commenters confirmed that the limited number of ESP-equipped kilns in the lime industry can be started on natural gas or other listed clean fuels.

The commenters stated that for baghouse and scrubber-equipped kilns, clean fuel startup is not needed because the air pollution control device is operating at the beginning of startup and begins removing PM immediately. The commenters stated that since stone feed rates are low during startup, total PM emissions exiting the kiln will be less than during normal operation, and the operating air pollution control devices will ensure that PM will be removed. The commenters also noted that clean fuels are not available at all lime manufacturing locations (for example, natural gas is not readily available in areas far from gas pipelines).

The commenters stated that the proposed requirement to meet the opacity and scrubber liquid flow rate operating limits is sufficient to show that emissions are not excessive for baghouse and scrubber-equipped kilns. The commenters recommended that the EPA delete the requirement for baghouse and scrubber-equipped kilns to start on clean fuels but add a requirement that the air pollution control devices for such kilns be in operation at the beginning of startup.

Response: The EPA agrees that the requirement to start and operate on "clean fuels" is unnecessary for kilns equipped with FFs or wet scrubbers because the control devices can be operational at the time of startup. Therefore, we are not finalizing the work practice requirement to startup on clean fuel for kilns equipped for FFs or wet scrubbers. As explained above in section C.2, we are instead requiring kilns equipped with FFs, ESPs or wet scrubbers to comply with standards as described in section C.2 above and in Table 2 during startup and shutdown.

Comment: The proposed definition of the end of startup was "Startup ends 60 minutes after the lime kiln generates lime product." Commenters stated that the term "lime product" is not specific enough to provide certainty to regulated sources. The commenters highlighted that a kiln will start to discharge off-spec product almost simultaneously with the lighting of the primary fuel. The commenters stated that it can take up to 12 hours to produce quality grade lime following first discharge from a rotary kiln, and even longer for a vertical kiln.

The commenters recommended that the end of startup should be related to levels of stone feed, because the applicable PM emissions limits are based on tons of stone feed. The commenters recommended that the definition of the end of startup should be revised to read "Startup ends 60 minutes after stone feed reaches planned production quantities."

Response: The EPA appreciates the commenters feedback regarding the definition of the end of startup. Commenters provided further information (Docket ID Item No. EPA–HQ–OAR–2017–0015–0015, *SSM Letter from Industry (1/31/2019)*) regarding what constitutes on-specification lime product and the time when on-specification lime product is produced. Commenters note that on-specification lime is produced when steady-state conditions are achieved. The EPA determined that the definition of the end of startup is the time when steady-state conditions are achieved such that PM testing could be conducted with the reference test method. We have determined that these steady-state conditions are achieved either when first producing on-specification lime product or 12 hours following first discharge from the kiln, whichever is earlier.

We are finalizing the definition of the end of startup to provide more clarity, as follows: "*Startup ends when the lime kiln generates on-specification lime product or 12 hours following first discharge from the lime kiln, whichever is earlier.*" We are also finalizing a new definition for on-specification lime product, as follows: "*On-specification lime product means lime product that has been sufficiently calcined to meet end use requirements.*"

Finally, we are finalizing a requirement for facilities to test hourly during startup to determine when lime product meets the definition of on-specification, to maintain records of the time the kiln first began producing on-specification lime product, and the time of first discharge from the lime kiln.

Comment: Commenters stated that the best way to address malfunction events would be for plants to develop site-specific protocols for malfunctions that would be embodied in a rule required plan, and that compliance with those protocols would constitute compliance with an applicable work practice standard. The commenters suggested retaining the requirement for a SSM plan that would contain these protocols, or requiring them in the plant's operations, maintenance, and monitoring (OM&M) plan.

The commenters stated that this would allow work practices for malfunctions to be tailored to the specific equipment and operating conditions present at each plant, and

the presence of the protocols in a required plan would allow for the EPA review and enforcement. The commenters stated that the EPA's consideration of work practice standards for specified malfunctions (84 FR 48728) would be better than not setting separate standards at all, but that this approach would omit some malfunctions, and will not have the same degree of "fit" as tailored OM&M protocols would have.

The commenters stated that adopting work practice standards for specified malfunctions (as opposed to tailored OM&M protocols) could also cause confusion as to what malfunctions are covered by the regulation. The commenters summarized the definition of malfunction in 40 CFR 63.2. The commenters noted that not all operational malfunctions of kilns and their associated air pollution control and monitoring equipment constitute "malfunctions" under the definition in section 63.2, because some problems do not have the potential to cause emissions limitations to be exceeded.

The commenters stated that local engineering expertise may be required to determine whether particular operational malfunctions are "malfunctions" under the statute and rule and that this is a reason why tailored procedures in OM&M plans would be preferable to work practice standards for specified malfunctions.

Response: The EPA does not agree with the commenter that malfunctions should be addressed through source-specific enforceable "plans" that would contain these protocols for malfunctions. Establishing source-specific protocols for malfunctions that met MACT stringency requirements would be difficult, if not impossible, given the myriad different types of malfunctions that can occur. *See, U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 608 (2016)("Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.")

The EPA is also not finalizing specific work practice standards for specific malfunction events, although we may do so if available information supports separate MACT-compliant standards in the future. In this case, we received comment and information on potential work practice standards during periods of malfunction, however we do not have information to support that the suggested standards met the MACT stringency requirements. The EPA also agrees that finalizing specific work practice standards for malfunctions has the potential to omit certain malfunction events and cause confusion regarding what malfunctions are covered by the regulation, as it would be difficult to capture all malfunction events.

Comment: A commenter stated support for the EPA's proposed removal of the existing exemption of emissions during SSM periods. The commenter stated that the CAA requires that standards are continuous and applicable at all times and referenced various court rulings upholding this determination.

The commenter stated that the EPA may not finalize the new SSM exemptions it has proposed. The commenter stated that the EPA has not cited and can cite no statutory language granting it authority or "discretion" to set such standards, because it has none. The commenter stated that the EPA has only the discretion provided by the Act and delegated by Congress. [*Clean Air Council* v. *Pruitt,* 862 F.3d 1, 9 (DC Cir. 2017)] The commenter stated that relevant statutory language denies, rather than gives, the EPA authority to set malfunction-based standards or exemptions. See 42 U.S.C. 7412(d), (h), and 7602(k).

Response: The EPA disagrees that it has proposed new SSM exemptions or that the EPA does not have authority to establish different standards for periods of startup, shutdown or malfunction. In fact, the EPA proposed to (1) eliminate the SSM exemption, (2) require compliance with the existing standard for periods of malfunction and (3) require compliance with standards during periods of startup and shutdown. The commenter does not explain and cannot support the general claim that the statutory language denies the EPA authority to set different standards for startup or shutdown. The 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008) ("2008 Sierra Club decision"), held that emissions standards or limitations must be continuous in nature and that "some" section 112 standards apply continuously. The DC Circuit reiterated this principle in *Sierra Club* v *EPA,* 884 F. 3d. 1185, 1203 (DC Cir. 2018) ("2018 Sierra Club decision") explaining that the 2014 Sierra Club decision "held that, whenever HAP sources are in operation, including during startup and shutdown, the EPA must continuously subject them to either numeric limits or Section 112(h)-compliant work practice standards." Consistent with the 2008 Sierra Club decision, and taking into account startup and shutdown periods, the EPA proposed work practice standards for these periods based on a determination under CAA section 112(h) that for kilns and coolers it was not feasible to prescribe or enforce a numeric standard during these periods of startup and shutdown. See 84 FR 48727. As discussed in the preamble to the final rule, based on public comments, we have made changes from the proposal to the standards for periods of startup and shutdown.

Comment: One commenter stated that the EPA does not have statutory authority to create work practice requirements for startups. The commenter summarized the requirements and applicable definitions of CAA sections 7412(h)(1) and (h)(2) and stated that the EPA has not satisfied either of the statute's definitions of "not feasible to prescribe or enforce and emission standard." The commenter stated that promulgating work practice requirements instead of numeric emission limitations for periods of startup would violate the statute. The commenter stated that CAA section 112(h)(2)(B) covers situations where "the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations." The commenter stated that startup and shutdown are "events," not a "particular class of source." The commenter stated that section 112(h)(2)(B) cannot be used as justification for work practice standards in lieu of numeric emission limits.

Response: As discussed above, based on public comments, we have made changes from the proposal to the standards for periods of startup and shutdown. The EPA's final rule does not establish work practice standards for period of startup and shutdown, so the comment is no longer relevant. However, the EPA notes that it does not agree with the commenter that section 112(h)(2)(B) can be invoked to justify a work practice standard only for categories or subcategories of sources under section 112(h)(2)(B), not for periods of operation. Section 112(h) provides that the EPA may "promulgate a design, equipment, work practice, or operational standard, or combination thereof" in lieu of a numeric emission standard if the Administrator determines that it is not feasible, in his/her judgment, to prescribe or enforce a numeric standard. More specifically, section 112(h)(2) states it is infeasible to prescribe or enforce an emission standard if the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. Nothing in this section limits the Agency's discretion to establish work practice standards to particular sources, subcategories of sources, or source categories, or to certain periods of operations if, in the

Administrator's judgment, it is not feasible to prescribe or enforce a numeric emission standard during those periods. The reference to "a particular class of sources" in section 112(h)(2) does not limit the EPA's authority to determine, for a category or subcategory of sources, that it is infeasible to prescribe or enforce an emission standard for those sources during certain identifiable time periods, such as startup and shutdown.

Comment: A commenter stated that the EPA has proposed to excuse sources from using their ESPs during startup. The commenter stated that the EPA argues that industry stakeholders have claimed it may be unsafe to run ESPs during these times. The commenter stated that CAA section 112(h)(2)(B) does not authorize the EPA to set work practice requirements based on the Agency's views about the safety implications of running a particular control device.

The commenter stated that nothing in the CAA or existing rule requires lime kilns to control their PM emissions with ESPs. The commenter stated that if lime kiln owners and operators believe it is unsafe to run ESPs during startup and shutdown, the appropriate solution is for them to deploy other control devices (*e.g.,* FFs), not to excuse them from meeting numeric emission limits during these events.

Response: As discussed above, based on public comments, we have made changes from the proposal to the standards for periods of startup and shutdown. The EPA's final rule does not establish work practice standards for period of startup and shutdown so the comment is no longer relevant.

4. What is the rationale for our final approach for the SSM provisions?

We evaluated all comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that it is appropriate to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times or that are unnecessary or redundant in the absence of an SSM exemption. Therefore, we are finalizing our approach for the SSM provisions as proposed with changes as detailed in section IV.C.2 of this preamble. More information concerning the amendments we are finalizing for SSM is discussed above and in the preamble to the proposed rule (84 FR 48727–48730, September 16, 2019).

D. Electronic Reporting Requirements for the Lime Manufacturing Source Category

1. What did we proposed for the Lime Manufacturing source category?

The EPA proposed that owners or operators of lime manufacturing plants submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's CDX using the CEDRI. More information concerning our proposal on electronic reporting requirements can be found in the proposed rule (84 FR 48708).

2. How did the electronic reporting provisions change for the Lime Manufacturing source category?

Since proposal, the electronic reporting provisions have not changed.

3. What key comments did we receive on the electronic reporting provisions, and what are our responses?

The EPA received comments related to the proposed electronic reporting provisions. The commenters generally supported the proposed provisions but disagreed with certain aspects of the provisions.

Comment: Commenters provided feedback on the electronic semiannual compliance report (spreadsheet template), per the EPA's request (84 FR 48730). The commenters noted the following:

- In tab "CMS Deviation Summary," column D (Total Source Operating Time (hours)), and column F (Total Duration of CMS Downtime as a percentage of Total Emissions Unit Operating Time) are both protected so it is not possible for an operator to input this data. This should be corrected.
- The example source operating time is shown as 6,240 hours. For semi-annual reporting, the maximum possible hours are 4,380.

The commenters stated that the EPA should compare the final template reporting form to the final rule to ensure each reporting element is required in the rule and that the template reporting form instructions are accurate and detailed enough to ensure consistent reporting across the industry.

Response: The EPA will check the final reporting template to be sure each reporting requirement marked as a required element is required by the final rule and will also provide adequate instructions for filling out the reporting template. The EPA will also check to be sure columns D (operating time) and F are unprotected in order that manual inputs can be entered by the user. The example operating time for semi-annual reporting will be updated to 4,380 hours.

Comment: One commenter stated that the EPA may not create an unlawful exemption or extension for compliance reporting as it proposes to do for web outages or so-called "*force majeure* events," as this violates the requirement for standards to be continuous and would allow unreported exceedances to go unchecked, indefinitely.

Response: The commenter asserts that the brief case-by-case extension of report submittal deadlines is an unlawful exemption from compliance with the emissions standards. This is not the case. The EPA notes that there is no exemption to reporting, much less an exemption from compliance with the emission standards, only a method for requesting an extension of the reporting deadline. Reporters are required to justify their request and identify a reporting date. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the CEDRI outage is resolved or after the *force majeure* event occurs. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed.

The Administrator has full discretion to accept or reject the claim of a CEDRI system outage or *force majeure.* As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation.

The EPA also disagrees that the ability to request a reporting extension violates the requirement for emissions standards to be continuous. While reporting is an important mechanism for the EPA and air agencies to assess whether owners or operators are in compliance with emissions standards, reporting obligations are separate from (*i.e.,* in addition to) requirements that an owner or operator be in compliance with an emissions standard. The EPA has discretion to establish reporting schedules, and also discretion to allow a mechanism for extension of those schedules on a case-by-case basis.

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for Lime Manufacturing Plants Residual Risk and Technology Review,* which is available in the docket for this action.

4. What is the rational for our final approach for the electronic reporting provisions?

The EPA evaluated all of the comments on the EPA's proposed amendments to the electronic reporting provisions. For the reasons explained in the proposed rule (84 FR 48708), we have determined the electronic submittal of the reports addressed in this final rulemaking will:

- Increase the usefulness of the data contained in those reports;
- be consistent with current trends in data availability and transparency;
- further assist in the protection of public health and the environment;
- improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements;
- facilitate the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance; and
- ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA.

Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [7] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [8] developed in response to the White House's Digital Government Strategy.[9] For more information on the benefits of electronic reporting, see the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2017–0015.

E. IBR

In accordance with the requirements of 1 CFR 51.5, the EPA will incorporate by reference the following documents described in the amendments to 40 CFR 63.14:

- ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for table 5 to subpart AAAAA. This method is approved as an alternative to EPA Method 3B of appendix A to part 60.
- ASTM D6348–03 (Reapproved 2010), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2010, IBR approved for 40 CFR 63.7142(a) and 63.7142(b). This method is approved as an alternative to EPA Method 320 of appendix A to part 63.
- ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for 40 CFR 63.7142(a) and 40 CFR 63.7142(b). This method is approved as an alternative to EPA Method 320 of appendix A to part 63.
- ASTM D6735–01 (Reapproved 2009), Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method, IBR approved for 40 CFR 63.7142(a). This method is approved as an alternative to EPA Method 321 of appendix A to part 63.
- ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved October 1, 2010, IBR approved for 40 CFR 63.7142(b). This method is approved as an alternative to EPA Method 18 of appendix A to part 60.
- EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, IBR approved for 40 CFR 63.7113(d). This method was added in accordance with final revisions to the bag leak detection requirements under 40 CFR 63.7113(d).

The ANSI/ASME document is available from the American Society of Mechanical Engineers (ASME) at *http://www.asme.org;* by mail at Two Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. The ASTM documents are available from the American Society for Testing and Materials (ASTM) at *https://www.astm.org;* by mail at l00 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; or by telephone at (610) 832–9500. The EPA has made, and will continue to make, the EPA document generally available electronically through *https://www.regulations.gov/* and at the EPA Docket Center (see the **ADDRESSES** section of this preamble for more information).

F. Technical and Editorial Changes for the Lime Manufacturing Source Category

1. What did we propose for the Lime Manufacturing source category?

The EPA proposed the following technical and editorial changes:

- Revising the monitoring requirements in 40 CFR 63.7113 to the provision that triboelectric bag leak detection system must be installed, calibrated, operated, and maintained according to EPA–454/R–98–015. *Fabric Filter Bag Leak Detection Guidance;*
- revising 40 CFR 63.7142 to add an alternative test method to EPA Method 320;
- revising 40 CFR.7142 to add the latest version of ASTM Method D6735–01;
- revising 40 CFR.7142 to add the latest version of ASTM Method D6420–99; and
- revising Table 4 to 40 CFR part 63, subpart AAAAA, to add alternative compliance option.

2. How did the technical and editorial changes change for the Lime Manufacturing source category?

Since proposal, the technical and editorial changes have not changed.

3. What key comments did we received on the technical and editorial changes, and what are our responses?

No comments were received on the technical and editorial changes detailed above.

4. What is the rationale for our final approach for the technical and editorial changes?

Because no comments were received on the technical and editorial changes that the EPA proposed, we determined that these changes should be finalized as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

There are currently 35 lime manufacturing facilities operating in the United States that are subject to the Lime Manufacturing Plants NESHAP. The 40 CFR part 63, subpart AAAAA,

[7] The EPA's *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/documentD=EPA-HQ-OA-2011-0156-0154.*

[8] E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[9] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digitalgovernment.html.*

affected source is the lime kiln and its associated cooler, and the PSH operation system located at a major source of HAP emissions. A new or reconstructed affected source is a source that commenced construction after December 20, 2002, or meets the definition of reconstruction and commenced reconstruction after December 20, 2002.

B. What are the air quality impacts?

At the current level of control, emissions of total HAP are estimated to be approximately 2,320 tpy. This represents a reduction in HAP emissions of about 240 tpy due to the current (2004) Lime Manufacturing Plants NESHAP. The final amendments will require all affected sources subject to the emission standards in the Lime Manufacturing Plants NESHAP to operate without the SSM exemption. We were unable to quantify the specific emissions reduction associated with eliminating the SSM exemption. However, eliminating the SSM exemption will reduce emissions by requiring facilities to meet emissions standards during SSM periods.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment that would be required under this proposed rule. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

C. What are the cost impacts?

The 35 lime manufacturing plants that would be subject to the final amendments would incur minimal net costs to meet revised recordkeeping and reporting requirements and the standards for periods of startup and shutdown. Nationwide costs associated with the final requirements are estimated to be $15,271. The EPA believes that the lime manufacturing plants which are subject to the NESHAP can meet the final requirements with minimal additional capital or operational costs. Each facility will experience costs to read and understand the rule amendments. Costs associated with the elimination of the SSM exemption were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the requirement to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. The total costs associated with reviewing the final rule, meeting the revised recordkeeping and reporting requirements, and complying with the revised final standards are estimated to be $15,271. This is an estimated cost of $266 to $2,925 per facility, depending on the number of lime kilns operated and the type of controls installed. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms. Based on the costs associated with the elimination of the SSM exemption and the costs associated with the requirement to electronically submit compliance reports, we do not anticipate any significant economic impacts from these final amendments.

E. What are the benefits?

Although the EPA is unable to quantify reductions in HAP emissions as a result of the final amendments, we believe that the action improves the rule. Specifically, the final amendments remove SSM exemptions such that standards apply at all times. Additionally, the final amendments requiring electronic submittal of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test results will increase the usefulness of the data, is in keeping with current trends of data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community.

F. What analysis of environmental justice did we conduct?

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in the *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Source Category Operations,* which is available in the docket for this action. The results of the Lime Manufacturing source category demographic analysis indicated that emissions from the source category expose approximately 12 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population indicate that three of the 10 demographic groups (White, African American and people below the poverty level) that are living within 50 km of facilities in the source category exceed the corresponding national percentage for the same demographic groups.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Lime Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared

has been assigned EPA ICR number 2072.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the reporting and recordkeeping requirements for the Lime Manufacturing Plants NESHAP in the form of eliminating the SSM reporting and SSM plan requirements and requiring electronic submittal of all compliance reports (including performance test reports). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

Respondents/affected entities: Owners or operators of lime manufacturing plants that are major sources, or that are located at, or are part of, major sources of HAP emissions, unless the lime manufacturing plant is located at a kraft pulp mill, soda pulp mill, sulfite pulp mill, sugar beet manufacturing plant, or only processes sludge containing calcium carbonate from water softening processes.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart AAAAA).

Estimated number of respondents: On average over the next 3 years, approximately 36 existing major sources will be subject to these standards. It is also estimated that one additional respondent will become subject to the emission standards over the 3-year period.

Frequency of response: The frequency of responses varies depending on the burden item.

Total estimated burden: The average annual burden to industry over the next 3 years from these recordkeeping and reporting requirements is estimated to be 9,690 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for all facilities to comply with all of the requirements in the NESHAP is estimated to be $1,810,000 (per year), of which $15,271 (first year) is for this rule, and the rest is for other costs related to continued compliance with the NESHAP including $684,000 in annualized capital and operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. This action only eliminates the SSM exemption, revises other SSM related requirements, and adds electronic reporting. None of the changes will impact the small entities. The rule removes the SSM exemption and establishes emission standard for startup and shutdown. Based on the controls used at the small entities, they will not be impacted by the alternate emission standards. Thus, this action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The EPA does not know of any lime manufacturing facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of the proposal preamble (84 FR 48708, September 16, 2019) and further documented in the risk report titled *Residual Risk Assessment for the Lime Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use ANSI/ASME PTC 19.10–1981 Part 10 (2010), "Flue and Exhaust Gas Analyses," as an acceptable alternative to EPA Method 3B manual portion only and not the instrumental portion. This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. This standard may be obtained from *https://www.asme.org* or from the American Society of Mechanical Engineers (ASME) at Three Park Avenue, New York, New York 10016–5990.

The EPA has decided to use ASTM D6348–03(2010) and ASTM D6348–12e1, "Determination of Gaseous Compounds by Executive Direct Interface Fourier Transform (FTIR) Spectroscopy," as alternatives to using EPA Method 320 under certain conditions and incorporate these alternatives by reference. ASTM D6348–03(2010) was previously determined equivalent to EPA Method 320 with caveats. ASTM D6348–12e1 is a revised version of ASTM D6348–03(2010) and includes a new section on accepting the results from direct measurement of a certified spike gas cylinder, but still lacks the caveats we placed on the ASTM D6348–03(2010) version. The

voluntary consensus standard (VCS), ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," is an acceptable alternative to EPA Method 320 at this time with caveats requiring inclusion of selected annexes to the standard as mandatory. When using ASTM D6348–12e1, the conditions that must be met are defined in 40 CFR 63.7142(a)(2). This field test method employs an extractive sampling system to direct stationary source effluent to an FTIR spectrometer for the identification and quantification of gaseous compounds. The ASTM D6348–03(2010) and ASTM D6348–12el standards were developed and adopted by the American Society for Testing and Materials (ATSM).

The EPA has also decided to use ASTM D6735–01 (Reapproved 2009), "Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources Impinger Method," as an alternative to EPA Method 321 provided that the provisions in 40 CFR 63.7142(a)(4) are followed. The EPA used ASTM D6735–01 for the determination of HCl in EPA Methods 26, 26A, and 321 from mineral calcining exhaust sources. This method will measure the gaseous HCl and other gaseous chlorides and fluorides that pass through a PM filter. The ASTM D6735–01 standard was developed and adopted by the ASTM.

The EPA has decided to use VCS ASTM D6420–99 (Reapproved 2010), "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry" as an alternative to EPA Method 18 only when the target compounds are all known, and the target compounds are all listed in ASTM D6420 as measurable. ASTM D6420 should not be used for methane and ethane because atomic mass is less than 35. ASTM D6420 should never be specified as a total volatile organic compound method. This field method determines the mass concentration of volatile organic HAP.

The ASTM standards may be obtained from *http://www.astm.org* or from the ASTM at 100 Barr Harbor Drive, Post Office C700, West Conshohocken, Pennsylvania 19428–2959.

The EPA has decided to use EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997 as guidance for how a triboelectric bag leak detection system must be installed, calibrated, operated, and maintained. This document includes FF and monitoring system descriptions; guidance on monitor selection, installation, set up, adjustment, and operation; and quality assurance procedures. This document may be obtained from *http://www.epa.gov* or from the EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

While the EPA has identified another 10 VCS as being potentially applicable to this proposed rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other import technical and policy considerations. See the memorandum titled *Voluntary Consensus Standard Results for NESHAP: Lime Manufacturing Residual Risk and Technology Review,* in the docket for this proposed rule for the reasons for these determinations.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.B of the proposal preamble and the technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Source Category Operations,* which is available in the docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Lime manufacturing, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (e)(1), (h)(85), (86), (93), (100), and (n)(3) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), 63.1625(b), table 5 to subpart EEEE, 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, 63.7822(b), 63.7824(e), 63.7825(b), 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart AAAAA, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(h) * * *

(85) ASTM D6348–03 (Reapproved 2010), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2010, IBR approved for §§ 63.1571(a), 63.4751(i), 63.4752(e), 63.4766(b), 63.7142(a) and (b), tables 4 and 5 to subpart JJJJJ, tables 4 and 6 to subpart KKKKK, tables 1, 2, and 5 to subpart UUUUU and appendix B to subpart UUUUU.

(86) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for

§§ 63.997(e), 63.1571(a), 63.2354(b), table 5 to subpart EEEE, table 4 to subpart UUUU, and 63.7142(a) and (b).

* * * * *

(93) ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved October 1, 2010, IBR approved for §§ 63.670(j), Table 4 to subpart UUUU, 63.7142(b), and appendix A to this part: Method 325B.

* * * * *

(100) ASTM D6735–01 (Reapproved 2009), Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method, IBR approved for § 63.7142(b), tables 4 and 5 to subpart JJJJJ, and tables 4 and 6 to subpart KKKKK.

* * * * *

(n) * * *

(3) EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, IBR approved for §§ 63.548(e), 63.864(e), 63.7113(d), 63.7525(j), 63.7831(f), 63.8450(e), 63.8600(e), and 63.11224(f).

* * * * *

Subpart AAAAA—[Amended]

■ 3. Section 63.7083 is amended by revising paragraphs (a)(1), (2), and (b) and by adding paragraph (e) to read as follows:

§ 63.7083 When do I have to comply with this subpart?

(a) * * *

(1) If you start up your affected source before January 5, 2004, you must comply with the emission limitations no later than January 5, 2004, and you must have completed all applicable performance tests no later than July 5, 2004, except as noted in paragraphs (e)(1) and (2) of this section.

(2) If you start up your affected source after January 5, 2004, then you must comply with the emission limitations for new affected sources upon startup of your affected source and you must have completed all applicable performance tests no later than 180 days after startup, except as noted in paragraphs (e)(1) and (2) of this section.

(b) If you have an existing affected source, you must comply with the applicable emission limitations for the existing affected source, and you must have completed all applicable performance tests no later than January 5, 2007, except as noted in paragraphs (e)(1) and (2) of this section.

* * * * *

(e)(1) If your affected source commenced construction or reconstruction on or before September, 16, 2019, then the compliance date for the revised requirements promulgated at §§ 63.7090, 63.7100, 63.7112, 63.7113, 63.7121, 63.7130, 63.7131, 63.7132, 63.7140, 63.7141, 63.7142, and 63.7143 and Tables 2, 3, 4, 5, 7, 8 and 9 (except changes to the cross references to 63.6(f)(1) and (h)(1)) of 40 CFR 63, subpart AAAAA, published on July 24, 2020 is January 20, 2021.

(2) If your affected source commenced construction or reconstruction after September 16, 2019, then the compliance date for the revised requirements promulgated at §§ 63.7090, 63.7100, 63.7112, 63.7113, 63.7121, 63.7130, 63.7131, 63.7132, 63.7140, 63.7141, 63.7142, and 63.7143 and Tables 2, 3, 4, 5, 7, 8 and 9 to this subpart, published on July 24, 2020 is July 24, 2020 or the date of initial startup, whichever is later.

■ 4. Section 63.7090 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 63.7090 What emission limitations must I meet?

* * * * *

(b) You must meet each operating limit in Table 3 to this subpart that applies to you.

(c) On or after the relevant compliance date for your source as specified in §§ 63.7083(e), you must meet each startup and shutdown period emission limit in Table 2 to this subpart that applies to you.

■ 5. Section 63.7100 is amended by revising paragraphs (a), (b), (c), (d)(3), (d)(4)(iii), (d)(6) introductory text, and (e) to read as follows:

§ 63.7100 What are my general requirements for complying with this subpart?

(a) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the applicable emission limitations (including operating limits) at all times.

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the opacity and visible emission (VE) limits in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the applicable opacity and VE limits at all times.

(c) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). On and after the relevant compliance date for your source as specified in § 63.7083(e), you must always operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(d) * * *

(3) Procedures for the proper operation and maintenance of each emission unit and each air pollution control device used to meet the applicable emission limitations and operating limits in Tables 1, 2 and 3 to this subpart, respectively. On and after the relevant compliance date for your source as specified in § 63.7083(e), your OM&M plan must address periods of startup and shutdown.

(4) * * *

(iii) Prior to the relevant compliance date for your source as specified in § 63.7083(e), ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1)(i) and (ii), (3), and (4)(ii). On and after the relevant compliance date for your source as specified in § 63.7083(e), ongoing operation and maintenance procedures in accordance with the general requirements of paragraph (c) of this section and §§ 63.8(c)(1)(ii), (3), and (4)(ii); and

* * * * *

(6) Corrective actions to be taken when process or operating parameters or add-on control device parameters deviate from the operating limits

specified in Table 3 to this subpart, including:

* * * * *

(e) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

■ 6. Section 63.7110 is amended by revising paragraphs (d) and (e) to read as follows:

§ 63.7110 By what date must I conduct performance tests and other initial compliance demonstrations?

* * * * *

(d) For each initial compliance requirement in Table 4 to this subpart that applies to you where the monitoring averaging period is 3 hours, the 3-hour period for demonstrating continuous compliance for emission units within existing affected sources at LMP begins at 12:01 a.m. on the compliance date for existing affected sources, that is, the day following completion of the initial compliance demonstration, and ends at 3:01 a.m. on the same day.

(e) For each initial compliance requirement in Table 4 to this subpart that applies to you where the monitoring averaging period is 3 hours, the 3-hour period for demonstrating continuous compliance for emission units within new or reconstructed affected sources at LMP begins at 12:01 a.m. on the day following completion of the initial compliance demonstration, as required in paragraphs (b) and (c) of this section, and ends at 3:01 a.m. on the same day.

■ 7. Section 63.7112 is amended by revising paragraphs (a), (b), (c), (j) introductory text, (k) introductory text, (k)(3), and (l) introductory text, and adding paragraph (m) to read as follows:

§ 63.7112 What performance tests, design evaluations, and other procedures must I use?

(a) You must conduct each performance test in Table 5 to this subpart that applies to you.

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions specified in Table 5 to this subpart. On and after the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source and under the specific conditions in Table 5 to this subpart. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(c) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1). On and after the relevant compliance date for your source as specified in § 63.7083(e), you may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in paragraph (b) of this section.

* * * * *

(j) You must establish any applicable 3-hour block average operating limit indicated in Table 3 to this subpart according to the applicable requirements in Table 4 to this subpart and paragraphs (j)(1) through (4) of this section.

* * * * *

(k) For each building enclosing any PSH operations that is subject to a VE limit, you must conduct a VE check according to item 18 in Table 5 to this subpart, and in accordance with paragraphs (k)(1) through (3) of this section.

* * * * *

(3) The observer conducting the VE checks need not be certified to conduct EPA Method 9 in appendix A–4 to part 60 of this chapter. However, the observer must meet the training requirements as described in EPA Method 22 in appendix A–7 to part 60 of this chapter.

(l) When determining compliance with the opacity standards for fugitive emissions from PSH operations in item 8 of Table 1 to this subpart, you must conduct EPA Method 9 in appendix A–4 to part 60 of this chapter according to item 17 in Table 5 to this subpart, and in accordance with paragraphs (l)(1) through (3) of this section.

* * * * *

(m) On and after the relevant compliance date for your source as specified in § 63.7083(e), during startup, kilns must be tested hourly to determine when lime product meets the definition of on-specification lime product.

■ 8. Section 63.7113 is amended by revising paragraphs (d) and (f) to read as follows:

§ 63.7113 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(d) For each bag leak detection system (BLDS), you must meet any applicable requirements in paragraphs (a)(1) through (5) and (d)(1) through (10) of this section.

(1) The BLDS must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(2) The sensor on the BLDS must provide output of relative PM emissions.

(3) The BLDS must be equipped with a device to continuously record the output signal from the sensor.

(4) The BLDS must have an alarm that will sound automatically when it detects an increase in relative PM emissions greater than a preset level.

(5) The alarm must be located in an area where appropriate plant personnel will be able to hear it.

(6) For a positive-pressure fabric filter (FF), each compartment or cell must have a bag leak detector (BLD). For a negative-pressure or induced-air FF, the BLD must be installed downstream of the FF. If multiple BLD are required (for either type of FF), the detectors may share the system instrumentation and alarm.

(7) Each triboelectric BLDS must be installed, calibrated, operated, and maintained according to EPA–454/R–98–015, "Fabric Filter Bag Leak Detection Guidance," (incorporated by reference—see § 63.14). Other types of bag leak detection systems must be installed, operated, calibrated, and maintained according to the manufacturer's written specifications and recommendations. Standard operating procedures must be incorporated into the OM&M plan.

(8) At a minimum, initial adjustment of the system must consist of establishing the baseline output in both of the following ways, according to section 5.0 of the EPA–454/R–98–015, "Fabric Filter Bag Leak Detection Guidance," (incorporated by reference—see § 63.14):

(i) Adjust the range and the averaging period of the device.

(ii) Establish the alarm set points and the alarm delay time.

(9) After initial adjustment, the sensitivity or range, averaging period,

alarm set points, or alarm delay time may not be adjusted except as specified in the OM&M plan required by § 63.7100(d). In no event may the range be increased by more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete FF inspection that demonstrates that the FF is in good operating condition, as defined in section 5.2 of the "Fabric Filter Bag Leak Detection Guidance," (incorporated by reference—see § 63.14). Record each adjustment.

(10) Record the results of each inspection, calibration, and validation check.

* * * * *

(f) For each emission unit equipped with an add-on air pollution control device, you must inspect each capture/collection and closed vent system at least once each calendar year to ensure that each system is operating in accordance with the operating requirements in item 6 of Table 3 to this subpart and record the results of each inspection.

* * * * *

■ 9. Section 63.7114 is amended by revising paragraphs (a) introductory text and (b) to read as follows:

§ 63.7114 How do I demonstrate initial compliance with the emission limitations standard?

(a) You must demonstrate initial compliance with each emission limit in Table 1 to this subpart that applies to you, according to Table 4 to this subpart. For existing lime kilns and their associated coolers, you may perform VE measurements in accordance with EPA Method 9 of appendix A to part 60 in lieu of installing a COMS or PM detector if any of the conditions in paragraphs (a)(1) through (3) of this section exist:

* * * * *

(b) You must establish each site-specific operating limit in Table 3 to this subpart that applies to you according to the requirements in § 63.7112(j) and Table 5 to this subpart. Alternative parameters may be monitored if approval is obtained according to the procedures in § 63.8(f).

* * * * *

■ 10. Section 63.7120 is amended by revising paragraph (c) introductory text to read as follows and removing paragraph (c)(3).

§ 63.7120 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(c) Data recorded during the conditions described in paragraphs (c)(1) and (2) of this section may not be used either in data averages or calculations of emission or operating limits; or in fulfilling a minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

* * * * *

■ 11. Section 63.7121 is amended by revising paragraphs (a), (b), (d), (e) introductory text, and (e)(3) to read as follows:

§ 63.7121 How do I demonstrate continuous compliance with the emission limitations standard?

(a) You must demonstrate continuous compliance with each emission limitation in Tables 1 and 3 to this subpart that applies to you according to the methods specified in Tables 6 and 7 to this subpart.

(b) You must report each instance in which you did not meet each operating limit, opacity limit, and VE limit in Tables 2, 3 and 7 to this subpart that applies to you. These deviations must be reported according to the requirements in § 63.7131.

* * * * *

(d) Prior to the relevant compliance date for your source as specified in § 63.7083(e), consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

(e) For each PSH operation subject to an opacity limit as specified in Table 1 to this subpart, and any vents from buildings subject to an opacity limit, you must conduct a VE check according to item 1 in Table 7 to this subpart, and as follows:

* * * * *

(3) The observer conducting the VE checks need not be certified to conduct EPA Method 9 in appendix A–4 to part 60 of this chapter but must meet the training requirements as described in EPA Method 22 of appendix A–7 to part 60 of this chapter.

* * * * *

■ 12. Section 63.7130 is amended by revising paragraph (e) to read as follows:

§ 63.7130 What notifications must I submit and when?

* * * * *

(e) If you are required to conduct a performance test, design evaluation, opacity observation, VE observation, or other initial compliance demonstration as specified in Table 4 or 5 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). Beginning on the relevant compliance date for your source as specified in § 63.7083(e), submit all subsequent Notification of Compliance Status following the procedure specified in § 63.7131(h).

(1) For each initial compliance demonstration required in Table 4 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each compliance demonstration required in Table 6 to this subpart that includes a performance test conducted according to the requirements in Table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

■ 13. Section 63.7131 is amended by:
■ a. Revising paragraphs (a) and paragraph (b) introductory text;
■ b. Adding paragraph (b)(6);
■ c. Revising paragraphs (c)(4), paragraphs (d), (e) introductory text, and (e)(2);
■ d. Adding paragraph (e)(12);
■ e. Revising paragraph (f); and
■ f. Adding paragraphs (g) through (j).

The revisions and additions read as follows:

§ 63.7131 What reports must I submit and when?

(a) You must submit each report listed in Table 8 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date specified in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (6) of this section:

* * * * *

(6) Beginning on the relevant compliance date for your source as specified in § 63.7083(e), submit all subsequent compliance reports following the procedure specified in paragraph (h) of this section.

(c) * * *

(4) Prior to the relevant compliance date for your source as specified in

§ 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).

* * * * *

(d) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and VE limit) that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the information specified in paragraphs (c)(1) through (4) and (d)(1) and (2) of this section. The deviations must be reported in accordance with the requirements in § 63.10(d) prior to the relevant compliance date for your source as specified in § 63.7083(e) and the requirements in § 63.10(d)(1)–(4) beginning on the relevant compliance date for your source as specified in § 63.7083(e).

(1) The total operating time of each emission unit during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), and the corrective action taken.

(3) An estimate of the quantity of each regulated pollutant emitted over a particulate matter emission limit, and a description of the method used to estimate the emissions.

(e) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and VE limit) occurring at an affected source where you are using a CMS to comply with the emission limitation in this subpart, you must include the information specified in paragraphs (c)(1) through (4) and (e)(1) through (11) of this section, except that beginning on the relevant compliance date for your source as specified in 63.7083(e), the semiannual compliance report must also include the information included in paragraph (e)(12) of this section. This includes periods of startup, shutdown, and malfunction.

* * * * *

(2) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(12) An estimate of the quantity of each regulated pollutant emitted over a particulate matter emission limit, and a description of the method used to estimate the emissions.

(f) Each facility that has obtained a title V operating permit pursuant to part 70 or part 71 of this chapter must report all deviations as defined in this subpart in the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A) of this chapter. If you submit a compliance report specified in Table 8 to this subpart along with, or as part of, the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A) of this chapter, and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation you may have to report deviations from permit requirements to the permit authority.

(g) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(h) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (i) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (i) of this section.

(i) If you are required to electronically submit a report or notification through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (i)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(j) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (j)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 14. Section 63.7132 is amended by revising paragraphs (a)(2) and (c) to read as follows:

§ 63.7132 What records must I keep?

(a) * * *

(2) Prior to the relevant compliance date for your source as specified in § 63.7083(e), the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(e), the records in paragraphs (a)(2)(i) and (ii) of this section.

(i) You must keep records for each startup period of the date, the time startup began, the time began producing on-specification lime product, and the time discharge from the kiln began for any affected source that is subject to a standard during startup that differs from the standard applicable at other times.

(ii) You must keep records of the date, time, cause and duration of each malfunction (as defined in 40 CFR 63.2) that causes an affected source to fail to meet an applicable standard; if there was also a monitoring malfunction, the date, time, cause, and duration of the monitoring malfunction; the record must list the affected source or equipment; if there was a failure to meet a particulate matter emissions limit, an estimate of the volume of each regulated pollutant emitted over the limit, and a description of the method used to estimate the emissions.

* * * * *

(c) You must keep the records required by Tables 6 and 7 to this subpart to show continuous compliance with each emission limitation that applies to you.

* * * * *

■ 15. Section 63.7133 is amended by adding paragraph (d) to read as follows:

§ 63.7133 In what form and for how long must I keep my records?

* * * * *

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 16. Section 63.7140 is amended to read as follows:

§ 63.7140 What parts of the General Provisions apply to me?

Table 9 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you. When there is overlap between subpart A and subpart AAAAA, as indicated in the "Explanations" column in Table 8, subpart AAAAA takes precedence.

■ 17. Section 63.7141 is amended by revising paragraph (c) to read as follows:

§ 63.7141 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (7) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.7090(a).

(2) Approval of alternative opacity emission limitations in § 63.7090(a) and (c).

(3) Approval of alternatives to the operating limits in § 63.7090(b).

(4) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(5) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

(7) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 18. Section 63.7142 is amended by:

■ a. Revising paragraph (a)(1);

■ b. Redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(3) and (a)(4);

■ c. Adding new paragraph (a)(2);

■ d. Revising newly designated paragraph (a)(4) introductory text, and paragraphs (a)(4)(i), and (a)(4)(v);

■ e. Redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(3) and (b)(4);

■ f. Adding new paragraph (b)(2); and

■ g. Revising newly designated paragraphs (b)(3) and (b)(4).

The revisions and additions read as follows:

§ 63.7142 What are the requirements for claiming area source status?

(a) * * *

(1) EPA Method 320 of appendix A to this part, or

(2) As an alternative to Method 320 of Appendix A, ASTM D6348–03 (Reapproved 2010) including Annexes A1 through A8 (incorporated by reference—see § 63.14). ASTM D6348–12e1 (incorporated by reference—see § 63.14) is an acceptable alternative to EPA Method 320 of appendix A, provided that the provisions of paragraphs (a)(2)(i) and (ii) of this section are followed:

(i) The test plan preparation and implementation in the Annexes to ASTM D6348–03 (Reapproved 2010), Sections A1 through A8 are mandatory.

(ii) In ASTM D6348–03 (Reapproved 2010) Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack))/(%R) × 100; or

* * * * *

(4) As an alternative to EPA Method 321, ASTM Method D6735–01 (Reapproved 2009), (incorporated by reference—see § 63.14), provided that the provisions in paragraphs (a)(3)(i) through (vi) of this section are followed.

(i) A test must include three or more runs in which a pair of samples is obtained simultaneously for each run according to section 11.2.6 of ASTM Method D6735–01 (Reapproved 2009).

* * * * *

(v) The post-test analyte spike procedure of section 11.2.7 of ASTM Method D6735–01 (Reapproved 2009) is conducted, and the percent recovery is calculated according to section 12.6 of ASTM Method D6735–01 (Reapproved 2009).

* * * * *

(b) * * *

(2) As an alternative to Method 320 of Appendix A, ASTM D6348–03 (Reapproved 2010) including Annexes A1 through A8 (incorporated by reference—see § 63.14). ASTM D6348–12e1 (incorporated by reference—see § 63.14) is an acceptable alternative to EPA Method 320 of appendix A, provided that the provisions of paragraphs (b)(2)(i) and (ii) of this section are followed:

(i) The test plan preparation and implementation in the Annexes to ASTM D6348–03 (Reapproved 2010), Sections A1 through A8 are mandatory.

(ii) In ASTM D6348–03 (Reapproved 2010) Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack))/(%R) × 100; or

(3) Method 18 of appendix A–6 to part 60 of this chapter; or

(4) As an alternative to Method 18, ASTM D6420–99 (Reapproved 2010), (incorporated by reference—see § 63.14), provided that the provisions of paragraphs (b)(3)(i) through (iv) of this section are followed:

(i) The target compound(s) are those listed in section 1.1 of ASTM D6420–99 (Reapproved 2010) as measurable;

(ii) This ASTM should not be used for methane and ethane because their atomic mass is less than 35 and

(iii) ASTM D6420–99 (Reapproved 2010) should never be specified as a total VOC method.

* * * * *

■ 19. Section 63.7143 is amended by:

■ a. Revising paragraph (3) under the definition of "Deviation."

■ b. Adding in alphabetical order definitions for "On-specification lime product," "Shutdown" and "Startup."

The revisions read as follows:

§ 63.7143 What definitions apply to this subpart?

* * * * *

Deviation * * *

(3) Prior to the relevant compliance date for your source as specified in § 63.7083(e), fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is allowed by this subpart.

* * * * *

On-specification Lime Product means lime product that has been sufficiently calcined to meet end use requirements.

* * * * *

Shutdown means the cessation of kiln operation. Shutdown begins when feed to the kiln is reduced below planned production quantities and ends when stone feed is halted and fuel combustion from the main burner ceases.

* * * * *

Startup means the beginning of kiln operation. Startup begins when a shutdown kiln begins firing fuel in the main burner. Startup ends when the lime kiln first generates on-specification lime product or 12 hours following first discharge from the kiln, whichever is earlier.

* * * * *

■ 20. Table 1 to subpart AAAAA is amended by revising the introductory text to read as follows:

Table 1 to Subpart AAAAA of Part 63—Emission Limits

As required in § 63.7090(a), you must meet each emission limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See Table 2 for emission limits for kilns and coolers during startup and shutdown).

* * * * *

■ 21. Redesignate tables 2 through 8 to subpart AAAAA as tables 3 through 9 to subpart AAAA.

■ 22. Add new Table 2 to subpart AAAAA to read as follows:

As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(e), you must meet each emission limit in the following table that applies to you.

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
1. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during each startup.	Emissions must not exceed 15 percent opacity (based on startup period block average).	i. Installed, maintained, calibrated and operated a COMS as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2); ii. Collected the COMS data at a frequency of at least once every 15 seconds, determining block averages for each startup period and demonstrating for each startup block period the average opacity does not exceed 15 percent.
2. All existing lime kilns and their associated coolers that have a wet scrubber during each startup.	See item 2.b of Table 3 of subpart AAAAA for emission limit.	See item 1 of Table 6 of subpart AAAAA for requirements for demonstrating compliance.
3. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during shutdown.	Emissions must not exceed 15 percent opacity (based on 6-minute average opacity for any 6-minute block period does not exceed 15 percent).	i. Installed, maintained, calibrated and operated a COMS as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2); ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
4. All existing lime kilns and their associated coolers that have a wet scrubber during shutdown.	See item 2.b of Table 3 of subpart AAAAA for emission limit.	See item 1 of Table 6 of subpart AAAAA for requirements for demonstrating compliance.

■ 23. Revise newly redesignated Table 3 to subpart AAAAA to read as follows:

As required in § 63.7090(b), you must meet each operating limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See Table 2 for operating limits during startup and shutdown).

TABLE 3 TO SUBPART AAAAA OF PART 63—OPERATING LIMITS

For . . .	You must . . .
1. Each lime kiln and each lime cooler (if there is a separate exhaust to the atmosphere from the associated lime cooler) equipped with an FF.	Maintain and operate the FF such that the BLDS or PM detector alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period; and comply with the requirements in § 63.7113(d) through (f) and Table 6 to this subpart. In lieu of a BLDS or PM detector maintain the FF such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent; and comply with the requirements in § 63.7113(f) and (g) and Table 6 to this subpart.
2. Each lime kiln equipped with a wet scrubber.	a. Maintain the 3-hour block exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the most recent PM performance test; and b. Maintain the 3-hour block scrubbing liquid flow rate greater than the flow rate operating limit established during the most recent performance test.
3. Each lime kiln equipped with an electrostatic precipitator.	Install a PM detector and maintain and operate the ESP such that the PM detector alarm is not activated and alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period, and comply with § 63.7113(e); or, maintain the ESP such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent, and comply with the requirements in § 63.7113(g); and comply with the requirements in § 63.7113(f) and Table 6 to this subpart.
4. Each PSH operation subject to a PM limit which uses a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the PM performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.
5. All affected sources	Prepare a written OM&M plan; the plan must include the items listed in § 63.7100(d) and the corrective actions to be taken when required in Table 6 to this subpart.
6. Each emission unit equipped with an add-on air pollution control device.	a. Vent captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to an FF; and b. Operate each capture/collection system according to the procedures and requirements in the OM&M plan.

■ 24. Revise newly redesignated Table 4 to subpart AAAAA to read as follows:

As required in § 63.7114, you must demonstrate initial compliance with each emission limitation that applies to you, according to the following table.

TABLE 4 TO SUBPART AAAAA OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

For . . .	For the following emission limit . . .	You have demonstrated initial compliance, if after following the requirements in § 63.7112 . . .
1. All new or existing lime kilns and their associated lime coolers (kilns/coolers).	PM emissions must not exceed 0.12 lb/tsf for all existing kilns/coolers with dry controls, 0.60 lb/tsf for existing kilns/coolers with wet scrubbers, 0.10 lb/tsf for all new kilns/coolers, or a weighted average calculated according to Eq. 3 in § 63.7112.	The kiln outlet PM emissions (and if applicable, summed with the separate cooler PM emissions), based on the PM emissions measured using Method 5 in appendix A to part 60 of this chapter and the stone feed rate measurement over the period of initial performance test, do not exceed the emission limit; if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions with a BLDS or PM detector, you have installed and are operating the monitoring device according to the requirements in § 63.7113(d) or (e), respectively; and if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions using a COMS, you have installed and are operating the COMS according to the requirements in § 63.7113(g).
2. Stack emissions from all PHS operations at a new or existing affected source.	PM emissions must not exceed 0.05 g/dscm	The outlet PM emissions, based on Method 5 or Method 17 in appendix A to part 60 of this chapter, over the period of the initial performance test do not exceed 0.05 g/dscm; and if the emission unit is controlled with a wet scrubber, you have a record of the scrubber's pressure drop and liquid flow rate operating parameters over the 3-hour performance test during which emissions did not exceed the emissions limitation.
3. Stack emissions from all PSH operations at a new or existing affected source, unless the stack emissions are discharged through a wet scrubber control device.	Emissions must not exceed 7 percent opacity	Each of the thirty 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A to part 60 of this chapter, does not exceed the 7 percent opacity limit. At least thirty 6-minute averages must be obtained.
4. Fugitive emissions from all PSH operations at a new or existing affected source.	Emissions must not exceed 10 percent opacity	Each of the 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A to part 60 of this chapter, does not exceed the 10 percent opacity limit.
5. All PSH operations at a new or existing affected source, enclosed in building.	All of the individually affected PSH operations must comply with the applicable PM and opacity emission limitations for items 2 through 4 of this Table 4, or the building must comply with the following: There must be no VE from the building, except from a vent, and vent emissions must not exceed the emission limitations in items 2 and 3 of this Table 4.	All the PSH operations enclosed in the building have demonstrated initial compliance according to the applicable requirements for items 2 through 4 of this Table 4; or if you are complying with the building emission limitations, there are no VE from the building according to item 18 of Table 5 to this subpart and § 63.7112(k), and you demonstrate initial compliance with applicable building vent emissions limitations according to the requirements in items 2 and 3 of this Table 4.
6. Each FF that controls emissions from only an individual storage bin.	Emissions must not exceed 7 percent opacity	Each of the ten 6-minute averages during the 1-hour initial compliance period, using Method 9 in appendix A to part 60 of this chapter, does not exceed the 7 percent opacity limit.
7. Each set of multiple storage bins with combined stack emissions.	You must comply with emission limitations in items 2 and 3 of this Table 4.	You demonstrate initial compliance according to the requirements in items 2 and 3 of this Table 4.

■ 25. Revise newly redesignated Table 5 to subpart AAAAA to read as follows:

As required in § 63.7112, you must conduct each performance test in the following table that applies to you.

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Select the location of the sampling port and the number of traverse ports.	Method 1 or 1A of appendix A to part 60 of this chapter; and § 63.6(d)(1)(i).	Sampling sites must be located at the outlet of the control device(s) and prior to any releases to the atmosphere.

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
2. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter.	Not applicable.
3. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Conduct gas molecular weight analysis.	Method 3, 3A, or 3B in appendix A to part 60 of this chapter.	You may use ASME PTC 19.10–1981—Part 10 (available for purchase from Three Park Avenue, New York, NY 10016–5990) as an alternative to using the manual procedures (but not instrumental procedures) in Method 3B.
4. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	Not applicable.
5. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a negative pressure PM control device.	Measure PM emissions.	Method 5 in appendix A to part 60 of this chapter.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in § 63.7083(e) and § 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); the minimum sampling volume must be 0.85 dry standard cubic meter (dscm) (30 dry standard cubic foot (dscf)); if there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 test of the cooler exhaust concurrently with the kiln exhaust test.
6. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a positive pressure FF or ESP.	Measure PM emissions.	Method 5D in appendix A to part 60 of this chapter.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in § 63.7083(e) and § 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); if there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 test of the separate cooler exhaust concurrently with the kiln exhaust test.
7. Each lime kiln	Determine the mass rate of stone feed to the kiln during the kiln PM emissions test.	Any suitable device	Calibrate and maintain the device according to manufacturer's instructions; the measuring device used must be accurate to within ±5 percent of the mass rate of stone feed over its operating range.
8. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average gas stream pressure drop across the wet scrubber.	Data for the gas stream pressure drop measurement device during the kiln PM performance test.	The continuous pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
9. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber.	Data from the liquid flow rate measurement device during the kiln PM performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
10. Each lime kiln equipped with a FF or ESP that is monitored with a PM detector.	Have installed and have operating the BLDS or PM detector prior to the performance test.	Standard operating procedures incorporated into the OM&M plan.	According to the requirements in § 63.7113(d) or (e), respectively.

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .	According to the following requirements . . .
11. Each lime kiln equipped with a FF or ESP that is monitored with a COMS.	Have installed and have operating the COMS prior to the performance test.	Standard operating procedures incorporated into the OM&M plan and as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2).	According to the requirements in § 63.7113(g).
12. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to a PM emission limit.	Measure PM emissions.	Method 5 or Method 17 in appendix A to part 60 of this chapter.	The sample volume must be at least 1.70 dscm (60 dscf); for Method 5, if the gas stream being sampled is at ambient temperature, the sampling probe and filter may be operated without heaters; and if the gas stream is above ambient temperature, the sampling probe and filter may be operated at a temperature high enough, but no higher than 121 °C (250 °F), to prevent water condensation on the filter (Method 17 may be used only with exhaust gas temperatures of not more than 250 °F).
13. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to an opacity limit.	Conduct opacity observations.	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 3 hours and you must obtain at least thirty, 6-minute averages.
14. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the average gas stream pressure drop across the wet scrubber.	Data for the gas stream pressure drop measurement device during the PSH operation stack PM performance test.	The pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
15. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber.	Data from the liquid flow rate measurement device during the PSH operation stack PM performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
16. Each FF that controls emissions from only an individual, enclosed, new or existing storage bin.	Conduct opacity observations.	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 1 hour and you must obtain ten 6-minute averages.
17. Fugitive emissions from any PSH operation subject to an opacity limit.	Conduct opacity observations.	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 3 hours, but the 3-hour test may be reduced to 1 hour if, during the first 1-hour period, there are no individual readings greater than 10 percent opacity and there are no more than three readings of 10 percent during the first 1-hour period.
18. Each building enclosing any PSH operation, that is subject to a VE limit.	Conduct VE check	The specifications in § 63.7112(k)	The performance test must be conducted while all affected PSH operations within the building are operating; the performance test for each affected building must be at least 75 minutes, with each side of the building and roof being observed for at least 15 minutes.

■ 26. Amend newly redesignated Table 6 to subpart AAAAA by revising the introductory text to read as follows:

As required in § 63.7121, you must demonstrate continuous compliance with each operating limit listed in Table 3 to subpart AAAAA that applies to you, according to the following table:

Table 6 to Subpart AAAAA of Part 63—Continuous Compliance With Operating Limits

* * * * *

■ 27. Revise newly redesignated Table 7 to subpart AAAAA to read as follows:

As required in § 63.7121 you must periodically demonstrate compliance with each opacity and VE limit that applies to you, according to the following table:

TABLE 7 TO SUBPART AAAAA OF PART 63—PERIODIC MONITORING FOR COMPLIANCE WITH OPACITY AND VISIBLE EMISSIONS LIMITS

For . . .	For the following emission limitation . . .	You must demonstrate ongoing compliance . . .
1. Each PSH operation subject to an opacity limitation as required in Table 1 to this subpart, or any vents from buildings subject to an opacity limitation.	a. 7–10 percent opacity, depending on the PSH operation, as required in Table 1 to this subpart.	(i) Conducting a monthly 1-minute VE check of each emission unit in accordance with § 63.7121(e); the check must be conducted while the affected source is in operation; (ii) If no VE are observed in 6 consecutive monthly checks for any emission unit, you may decrease the frequency of VE checking from monthly to semi-annually for that emission unit; if VE are observed during any semiannual check, you must resume VE checking of that emission unit on a monthly basis and maintain that schedule until no VE are observed in 6 consecutive monthly checks; (iii) If no VE are observed during the semiannual check for any emission unit, you may decrease the frequency of VE checking from semi-annually to annually for that emission unit; if VE are observed during any annual check, you must resume VE checking of that emission unit on a monthly basis and maintain that schedule until no VE are observed in 6 consecutive monthly checks; and (iv) If VE are observed during any VE check, you must conduct a 6-minute test of opacity in accordance with Method 9 of appendix A to part 60 of this chapter; you must begin the Method 9 test within 1 hour of any observation of VE and the 6-minute opacity reading must not exceed the applicable opacity limit.
2. Any building subject to a VE limit, according to item 8 of Table 1 to this subpart.	a. No VE	(i) Conducting a monthly VE check of the building, in accordance with the specifications in § 63.7112(k); the check must be conducted while all the enclosed PSH operations are operating; (ii) The check for each affected building must be at least 5 minutes, with each side of the building and roof being observed for at least 1 minute; (iii) If no VE are observed in 6 consecutive monthly checks of the building, you may decrease the frequency of checking from monthly to semi-annually for that affected source; if VE are observed during any semi-annual check, you must resume checking on a monthly basis and maintain that schedule until no VE are observed in 6 consecutive monthly checks; and (iv) If no VE are observed during the semi-annual check, you may decrease the frequency of checking from semi-annually to annually for that affected source; and if VE are observed during any annual check, you must resume checking of that emission unit on a monthly basis and maintain that schedule until no VE are observed in 6 consecutive monthly checks (the source is in compliance if no VE are observed during any of these checks).

■ 28. Revise newly redesignated Table 8 to subpart AAAAA to read as follows:

As required in § 63.7131, you must submit each report in this table that applies to you.

TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and VE limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period;	Semiannually according to the requirements in § 63.7131(b).
	b. If there were no periods during which the CMS, including any operating parameter monitoring system, was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out-of-control during the reporting period;	Semiannually according to the requirements in § 63.7131(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and VE limit) during the reporting period, the report must contain the information in § 63.7131(d);	Semiannually according to the requirements in § 63.7131(b).

TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS—Continued

You must submit a . . .	The report must contain . . .	You must submit the report . . .
	d. If there were periods during which the CMS, including any operating parameter monitoring system, was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.7131(e); and	Semiannually according to the requirements in § 63.7131(b).
	e. Before the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). On and after the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you failed to meet an applicable standard, the compliance report must include the information in § 63.7131(c)(3).	Semiannually according to the requirements in § 63.7131(b).
2. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the SSMP.
3. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. See § 63.10(d)(5)(ii).
(4) Performance Test Report	The information required in § 63.7(g)	According to the requirements of § 63.7131.

■ 29. Revise newly redesignated Table 9 to subpart AAAAA to read as follows:

As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 9 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.1(a)(1)–(4)	Applicability	Yes.	
§ 63.1(a)(5)		No.	
§ 63.1(a)(6)	Applicability	Yes.	
§ 63.1(a)(7)–(a)(9)		No.	
§ 63.1(a)(10)–(a)(14)	Applicability	Yes.	
§ 63.1(b)(1)	Initial Applicability Determination	Yes	§§ 63.7081 and 63.7142 specify additional applicability determination requirements.
§ 63.1(b)(2)		No.	
§ 63.1(b)(3)	Initial Applicability Determination	Yes.	
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)	Permit Requirements	No	Area sources not subject to subpart AAAAA, except all sources must make initial applicability determination.
§ 63.1(c)(3)–(4)		No.	
§ 63.1(c)(5)	Area Source Becomes Major	Yes.	
§ 63.1(d)		No.	
§ 63.1(e)	Applicability of Permit Program	Yes.	
§ 63.2	Definitions	Yes	Additional definitions in § 63.7143.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(a)(2)	Prohibited Activities	Yes.	
§ 63.4(a)(3)–(a)(5)		No.	

TABLE 9 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.4(b)–(c)	Circumvention, Severability	Yes.	
§ 63.5(a)(1)–(2)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)	Compliance Dates	Yes.	
§ 63.5(b)(2)		No.	
§ 63.5(b)(3)–(4)	Construction Approval, Applicability.	Yes.	
§ 63.5(b)(5)		No.	
§ 63.5(b)(6)	Applicability	Yes.	
§ 63.5(c)		No.	
§ 63.5(d)(1)–(4)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)(1)–(2)	Approval of Construction/Reconstruction.	Yes.	
§ 63.6(a)	Compliance for Standards and Maintenance.	Yes.	
§ 63.6(b)(1)–(5)	Compliance Dates	Yes.	
§ 63.6(b)(6)		No.	
§ 63.6(b)(7)	Compliance Dates	Yes.	
§ 63.6(c)(1)–(2)	Compliance Dates	Yes.	
§ 63.6(c)(3)–(c)(4)		No.	
§ 63.6(c)(5)	Compliance Dates	Yes.	
§ 63.6(d)		No.	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Yes.	
§ 63.6(e)(2)		No	[Reserved].
§ 63.6(e)(3)	Startup, Shutdown Malfunction Plan.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), the OM&M plan must address periods of startup and shutdown. See § 63.7100(d).
§ 63.6(f)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes.	
§ 63.6(g)(1)–(g)(3)	Alternative Standard	Yes.	
§ 63.6(h)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(h)(2)	Methods for Determining Compliance.	Yes.	
§ 63.6(h)(3)		No.	
§ 63.6(h)(4)–(h)(5)(i)	Opacity/VE Standards	Yes	This requirement only applies to opacity and VE performance checks required in Table 4 to subpart AAAAA.
§ 63.6(h)(5) (ii)–(iii)	Opacity/VE Standards	No	Test durations are specified in subpart AAAAA; subpart AAAAA takes precedence.
§ 63.6(h)(5)(iv)	Opacity/VE Standards	No.	
§ 63.6(h)(5)(v)	Opacity/VE Standards	Yes.	
§ 63.6(h)(6)	Opacity/VE Standards	Yes.	
§ 63.6(h)(7)	COM Use	Yes.	
§ 63.6(h)(8)	Compliance with Opacity and VE	Yes.	
§ 63.6(h)(9)	Adjustment of Opacity Limit	Yes.	
§ 63.6(i)(1)–(i)(14)	Extension of Compliance	Yes.	
§ 63.6(i)(15)		No.	

TABLE 9 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.6(i)(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Exemption from Compliance	Yes.	
§ 63.7(a)(1)–(a)(3)	Performance Testing Requirements.	Yes	§ 63.7110 specifies deadlines; § 63.7112 has additional specific requirements.
§ 63.7(b)	Notification	Yes.	
§ 63.7(c)	Quality Assurance/Test Plan	Yes.	
§ 63.7(d)	Testing Facilities	Yes.	
§ 63.7(e)(1)	Conduct of Tests	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7112(b).
§ 63.7(e)(2)–(4)	Conduct of Tests	Yes.	
§ 63.7(f)	Alternative Test Method	Yes.	
§ 63.7(g)	Data Analysis	Yes.	
§ 63.7(h)	Waiver of Tests	Yes.	
§ 63.8(a)(1)	Monitoring Requirements	Yes	See § 63.7113.
§ 63.8(a)(2)	Monitoring	Yes.	
§ 63.8(a)(3)		No.	
§ 63.8(a)(4)	Monitoring	No	Flares not applicable.
§ 63.8(b)(1)–(3)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)(i)	CMS Operation/Maintenance	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.8(c)(1)(ii)	CMS Spare Parts	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), no longer required.
§ 63.8(c)(2)–(3)	CMS Operation/Maintenance	Yes.	
§ 63.8(c)(4)	CMS Requirements	No	See § 63.7121.
§ 63.8(c)(4)(i)–(ii)	Cycle Time for COM and CEMS	Yes	No CEMS are required under subpart AAAAA; see § 63.7113 for CPMS requirements.
§ 63.8(c)(5)	Minimum COM procedures	Yes	COM not required.
§ 63.8(c)(6)	CMS Requirements	No	See § 63.7113.
§ 63.8(c)(7)–(8)	CMS Requirements	Yes.	
§ 63.8(d)(1)–(2)	Quality Control	Yes	See also § 63.7113.
§ 63.8(d)(3)	Quality Control	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.8(e)	Performance Evaluation for CMS	Yes	See also § 63.7113.
§ 63.8(f)(1)–(f)(5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test for CEMS.	No	No CEMS required in subpart AAAAA.
§ 63.8(g)(1)–(g)(5)	Data Reduction; Data That Cannot Be Used.	No	See data reduction requirements in §§ 63.7120 and 63.7121.
§ 63.9(a)	Notification Requirements	Yes	See § 63.7130.
§ 63.9(b)	Initial Notifications	Yes.	
§ 63.9(c)	Request for Compliance Extension.	Yes.	
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes.	
§ 63.9(f)	Notification of VE/Opacity Test	Yes	This requirement only applies to opacity and VE performance tests required in Table 5 to subpart AAAAA. Notification not required for VE/opacity test under Table 7 to subpart AAAAA.
§ 63.9(g)	Additional CMS Notifications	No	Not required for operating parameter monitoring.

TABLE 9 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.9(h)(1)–(h)(3)	Notification of Compliance Status	Yes.	
§ 63.9(h)(4)		No.	
§ 63.9(h)(5)–(h)(6)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting General Requirements.	Yes	See §§ 63.7131 through 63.7133.
§ 63.10(b)(1)	Records	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7132 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes.	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.10(b)(2)(vi)–(xii)	Recordkeeping for CMS	Yes.	
§ 63.10(b)(2)(xiii)	Records for Relative Accuracy Test.	No.	
§ 63.10(b)(2)(xiv)	Records for Notification	Yes.	
§ 63.10(b)(3)	Applicability Determinations	Yes.	
§ 63.10(c)	Additional CMS Recordkeeping	No	See § 63.7132.
§ 63.10(d)(1)	General Reporting Requirements	Yes.	
§ 63.10(d)(2)	Performance Test Results	Yes.	
§ 63.10(d)(3)	Opacity or VE Observations	Yes	For the periodic monitoring requirements in Table 7 to subpart AAAAA, report according to § 63.10(d)(3) only if VE observed and subsequent visual opacity test is required.
§ 63.10(d)(4)	Progress Reports	Yes.	
§ 63.10(d)(5)(i)	Periodic Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7131 for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.10(e)	Additional CMS Reports	No	See specific requirements in subpart AAAAA, see § 63.7131.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Yes.	
§ 63.11(a)–(b)	Control Device and Work Practice Requirements.	No	Flares not applicable.
§ 63.12(a)–(c)	State Authority and Delegations	Yes.	
§ 63.13(a)–(c)	State/Regional Addresses	Yes.	
§ 63.14(a)–(b)	Incorporation by Reference	No.	
§ 63.15(a)–(b)	Availability of Information and Confidentiality.	Yes.	

TABLE 9 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.16	Performance Track Provisions	Yes.	

§ 63.7831 [AMENDED]

■ 30. In § 63.7831(f)(4), add the phrase ''(incorporated by reference, see § 63.14)'' immediately following the words ''September 1997''.

[FR Doc. 2020–12588 Filed 7–23–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0794; FRL–10011–53–OAR]

RIN 2060–AU70

Mercury and Air Toxics Standards for Power Plants Electronic Reporting Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S Environmental Protection Agency (EPA) is finalizing amendments to the electronic reporting requirements for the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards (MATS)). This action revises and streamlines the electronic data reporting requirements of MATS, increases data transparency by requiring use of one electronic reporting system instead of two separate systems, and provides enhanced access to MATS data. No new monitoring requirements are imposed by this final action; instead, this action reduces reporting burden, increases MATS data flow and usage, makes it easier for inspectors and auditors to assess compliance, and encourages wider use of continuous emissions monitoring systems (CEMS) for MATS compliance. In addition, this final action extends the current deadline for alternative electronic data submission via portable document format (PDF) files through December 31, 2023.

DATES: This final rule is effective on September 9, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0794. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; email address: *parker.barrett@epa.gov.* For general information concerning MATS, contact Ms. Mary Johnson, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5025; email address: *johnson.mary@epa.gov.* For questions concerning the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and its implementation, contact Mr. Christopher Worley, Clean Air Markets Division, Mail Code 6204M, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9531; email address: *worley.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

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L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units (EGUs).
Federal government	[2] 221122	Fossil fuel-fired EGUs owned by the federal government.
State/local/tribal government	[2] 221122	Fossil fuel-fired EGUs owned by municipalities.
	921150	Fossil fuel-fired EGUs in Indian country.

[1] North American Industry Classification System.
[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your

entity is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 63.9981 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/mats/regulatory-actions-final-mercury-and-air-toxics-standards-mats-power-plants.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by November 9, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

D. What action is the Agency taking?

The EPA is finalizing this rule to streamline the electronic data reporting requirements of MATS; to increase data transparency by making more of the MATS data available in Extensible Markup Language (XML) format; and to amend the reporting and recordkeeping requirements associated with performance stack tests, particulate matter (PM) and hydrogen chloride (HCl) CEMS, and PM continuous parameter monitoring systems (CPMS).

E. What is the Agency's authority for taking this action?

The Agency's authority for taking this action is found at 42 U.S.C. 7401 *et seq.*

F. What are the incremental costs and benefits of this action?

As discussed in section VI.C of this preamble, this action is expected to reduce overall annual source burden by 11,000 hours per year, which when monetized is $15,079,000.

II. Background

These amendments revise the recordkeeping and reporting requirements of the MATS rule, in response to concerns raised by the regulated community. The MATS rule originally required affected EGU owners or operators to report MATS rule emissions and compliance information electronically using two data systems. See 40 CFR 63.10031 (77 FR 9304, February 16, 2012). Paragraph (a) of 40 CFR 63.10031 required EGU owners or operators that demonstrate compliance by continuously monitoring mercury (Hg) and/or HCl and/or hydrogen fluoride (HF) emissions to use the ECMPS Client Tool to submit monitoring plan information, quality assurance (QA) test results, and hourly emissions data in accordance with appendices A and B to subpart UUUUU of 40 CFR part 63. Paragraph (f) of 40 CFR 63.10031 required performance stack test results, performance evaluations of Hg, HCl, HF, sulfur dioxide (SO_2), and PM CEMS, 30-boiler operating day rolling average values for certain parameters, Notifications of Compliance Status, and semiannual compliance reports to be submitted to the EPA's WebFIRE database via the Compliance and Emissions Data Reporting Interface (CEDRI).

Subsequent to the publication of the MATS rule, stakeholders suggested to the EPA that the MATS rule electronic reporting burden could be significantly reduced if all of the required information were reported to one data system instead of two. The stakeholders also suggested that using one data system would benefit the EPA and the public in their review of MATS rule data, because the information would be reported in a consistent format. In view of these considerations, the stakeholders urged the EPA to consider amending the MATS rule to require all of the data to be reported through the ECMPS, a familiar data system that most EGU owners or operators have been using since 2009, to meet the electronic reporting requirements of the Acid Rain Program.

After careful consideration of the stakeholders' recommendations, the EPA concluded that the increased transparency of the emissions data and the reduction in reporting burden that could be achieved through the use of a single data system are consistent with Agency priorities. As a result, late in 2014, the EPA decided to take the necessary steps to require all of the electronic reports required by the MATS rule to be submitted through the ECMPS Client Tool. Those steps would include revising the MATS rule, modifying the ECMPS Client Tool, creating a detailed set of reporting instructions, and beta testing the modified software. Recognizing that insufficient time was available to complete these tasks before the initial compliance date for the MATS rule (April 16, 2015), the Agency embarked on a two-phased approach to complete them.

The first phase was completed when the EPA published a final rule requiring EGU owners or operators to suspend temporarily (until April 16, 2017) the use of the CEDRI interface as the means of submitting the reports described in 40 CFR 63.10031(f), (f)(1), (2), and (4), and to use the ECMPS Client Tool to submit PDF versions of these reports on an interim basis (see 80 FR 15510, March 24, 2015). The specific reports required to be submitted as PDF files included: Performance stack test reports containing enough information to assess compliance and to demonstrate that the testing was done properly; relative accuracy test audit (RATA) reports for SO_2, HCl, HF, and Hg CEMS; RATA reports for Hg sorbent trap monitoring systems; response correlation audit (RCA) and relative response audit (RRA) reports for PM CEMS; 30-boiler operating day rolling average reports for PM CEMS, PM CPMS, and approved hazardous air pollutants (HAP) metals CEMS; Notifications of Compliance Status; and semiannual compliance

reports. Section 63.10031(f)(6) of the March 24, 2015, final rule required each PDF version of a submitted interim report to include information that identifies the facility (name and address), the EGU(s) to which the report applies, the applicable rule citations, and other information. The rule further specified that in the event that implementation of the single data system initiative was not completed by April 16, 2017, the electronic reporting of MATS data would revert to the original two systems approach on and after that date.

In the preamble to the March 24, 2015, final rule, the EPA outlined the second phase of the single data system initiative, to be executed during the interim PDF reporting period. In phase two: (1) The Agency would publish a direct final rule, requiring MATS-affected sources to use the ECMPS Client Tool to submit all required reports; and (2) a detailed set of reporting instructions would be developed and ECMPS would be modified to receive and process the data.

Considering the magnitude of the rule changes that would be required to execute phase two, coupled with the need to specify data elements to be reported electronically for PM CEMS, PM CPMS, and HCl CEMS, the Agency decided to provide stakeholders an opportunity to review and comment on the proposed changes. The EPA issued the proposed rule on September 29, 2016.[1] The comment period for the 2016 proposal (or "previous proposal") was scheduled to close on October 31, 2016, but it was subsequently extended until November 15, 2016, in response to requests from several stakeholders for an extension.

Commenters were generally supportive of the initiative to simplify and streamline the MATS reporting requirements and to use the ECMPS Client Tool as the single MATS rule reporting system. However, they expressed serious concerns about the proposal to extend the interim PDF reporting process from April 16, 2017, to December 31, 2017. Although they favored an extension of the PDF reporting, they were unanimous in asserting that the proposed end date of December 31, 2017, would not allow enough time to finalize the rule, develop the necessary XML reporting formats and reporting instructions, and reprogram the ECMPS Client Tool. In addition, two data acquisition and handling system vendors stated that more time would be needed for them to adapt to the proposed changes and to develop the reporting software for their customers. Some of the commenters recommended that the EPA should extend the interim PDF reporting process through calendar year 2019; others suggested that the process should be extended for 6 to 8 calendar quarters after finalization of the rule.

In view of these considerations, on April 6, 2017, the EPA published a final rule extending the interim PDF file reporting process through June 30, 2018 (82 FR 16736). Technical corrections to appendix A were also included in the rule package. The rule went into effect on April 6, 2017. As the Agency was unable to complete the e-reporting provisions, another extension to the interim PDF file reporting process—through June 30, 2020—was promulgated on July 2, 2018 (83 FR 30879).

The Agency continued to develop the remaining electronic reporting and recordkeeping requirements, considering the comments received on the September 29, 2016 (81 FR 67062) proposal. When that effort was complete, rather than finalizing those requirements, the Agency decided to again provide stakeholders with an opportunity to review and comment on the requirements, so the Agency issued a proposal with those requirements on April 10, 2020 (85 FR 20342).

Thirty-five comment letters were received, and they are available in the docket. Many of those comments were similar to comments submitted before in other proposals and have been addressed previously. Responses for the comments on this action are included in the Response to Comments document which is also available in the docket. Significant comments can be sorted into eight groups; their general descriptions and responses follow.

1. Comments received on other MATS regulatory actions, *e.g.,* removal of the appropriate and necessary determination, are not relevant for this action and were not addressed. Likewise, comments regarding other regulatory actions, *e.g.,* insecticides and pesticides, are not relevant for this action and were not addressed.

2. A majority of commenters supported extending the use of PDF reporting until January 2024. Many industry commenters suggested splitting the package so the extension could be finalized, and more time could be spent on reviewing the other portions of the package. The Agency is not splitting the package and appreciates the support for the extension until the ECMPS Client Tool is reprogrammed and ready for use. The Agency sees no need for additional time to comment on the proposed revisions, as those revisions have been available for review and comment for over 3 years—since the September 29, 2016, proposal.

3. Commenters sought clarification on the conditions that would cause monitoring downtime to be considered a deviation, and the regulation provides that clarification.

4. Industry commenters sought to have consistent application of grace periods and ongoing QA check periods (based on operating quarters only) for PM CEMS and PM CPMS; however, these instruments differ from other CEMS because except for the annual testing, there is no other time when the monitoring system is compared to a certified reference method value to determine accuracy. This difference means that techniques allowing for additional periods before testing is required puts EGU owners or operators, as well as the environment, at additional risk of elevated emissions during such periods. Due to this difference, and its potential effects, the regulation will not provide grace periods beyond 1 calendar quarter or ongoing QA checks based on operating quarters only.

5. Commenters sought clarification on Hg low-emitting EGU (LEE) testing calculations, and the regulation provides such clarification in 40 CFR 63.10005(h)(3)(iii).

6. Some commenters continue to assert that data elements in appendix E are duplicative, but as described before, those data elements are already required and represent the minimum bits of information needed to ensure smooth operation of an electronic reporting system. Even so, clarifications from already-mentioned deviation and monitoring downtime circumstances, as well as for reporting span values and fuel usage, have been provided in appendix E.

7. One commenter asked the Agency to reconsider allowing the use of alternate semi-annual reporting submission dates established by operating permit programs, at least until the ECMPS Client Tool is operational; the Agency agrees that this flexibility should be maintained during the extension period, and the rule has been revised to allow use of such alternate semi-annual reporting dates.

8. Finally, some commenters requested continued engagement with stakeholders as the new ECMPS Client Tool software is developed and tested. Consistent with previous ECMPS reporting instructions changes and the implementation of previous MATS reporting changes, the Agency will

[1] 81 FR 67062, September 29, 2016.

provide draft reporting instructions and XML schema documentation prior to implementation and engage stakeholders during the development and testing of software.

This action finalizes an extension of the interim PDF reporting process through December 31, 2023, and finalizes the remaining needed amendments to the MATS rule on electronic reporting. Note that these amendments were developed after consideration of the comments received on the September 29, 2016, and April 10, 2020, proposals. III. What is the scope of these amendments?

This action amends the reporting requirements in 40 CFR 63.10031 of the MATS regulation, and, for consistency with those changes, amends related text in 40 CFR part 63, subpart UUUUU; specifically, 40 CFR 63.10000, 63.10005, 63.10009, 63.10010, 63.10011, 63.10020, 63.10021, 63.10030, 63.10032, 63.10042, and Tables 3, 8, and 9. In addition, the recordkeeping and reporting sections of appendices A and B are amended [2] and three new appendices are added to the rule, *i.e.,* appendices C, D, and E. Instead of using the electronic reporting tool (ERT) to submit some of the MATS data via CEDRI and submitting the remainder through the ECMPS Client Tool, as was required by the original MATS rule, this action allows EGU owners or operators to use the ECMPS Client Tool to report all of the required information in XML and PDF files.

IV. What are the specific amendments to 40 CFR part 63, subpart UUUUU as a result of this action?

The amendments to 40 CFR part 63, subpart UUUUU are discussed in detail in the paragraphs below.

A. Revisions to the Reporting Requirements of MATS

The reporting requirements of MATS are amended as follows:

(1) The ECMPS Client Tool is the exclusive data system for MATS reporting, in lieu of using both ECMPS and the CEDRI.

(2) The interim PDF reporting process described in 40 CFR 63.10031(f) is extended through December 31, 2023, to allow sufficient time for software development, programming, and testing. Until then, compliance with the emissions and operating limits will continue to be assessed based on the various PDF report submittals described in 40 CFR 63.10031(f) and data from Hg, HCl, HF, and SO_2 CEMS and sorbent trap monitoring systems, as reported through the ECMPS Client Tool. On and after January 1, 2024, compliance with the emissions and operating limits is assessed based on: (1) Quarterly compliance reports; (2) hourly data from all continuous monitoring systems (CMS) (including PM CEMS and PM CPMS) in XML format; (3) detailed reference method information for stack tests and CMS performance evaluations in XML format and PDF files; (4) Notifications of Compliance Status (if any) in PDF files; and (5) if applicable, supplementary data in PDF files for EGUs using paragraph 2 of the definition of startup in 40 CFR 63.10042. The ECMPS Client Tool is required to submit all of these reports and notifications.

(3) In order to properly close out the interim PDF reporting process, 40 CFR 63.10031(f)(6) states that PDF submittals are still accepted as necessary for the reports required under paragraph (f) introductory text, (f)(1), (2), or (4) if the deadlines for submitting those reports extend beyond December 31, 2023. As an example, the last semiannual compliance report under the interim PDF reporting process covers the period from July 1, 2023, through December 31, 2023; the deadline for submitting this report is January 30, 2024, and the report is submitted using the interim PDF reporting process.

(4) Revised paragraph (f)(2) of 40 CFR 63.10031 expands the quarterly reporting of 30- or 90-boiler operating day rolling average emission rates to include units monitoring Hg, HCl, HF, and/or SO_2 emissions, and units using emissions averaging. This change is consistent with 40 CFR 63.10031(f)(2) of the current rule, which requires quarterly reporting of 30-boiler operating day rolling averages for EGUs using PM CEMS, PM CPMS, and approved HAP metals CEMS. Therefore, starting with the first quarter of 2024, the 30- or 90-boiler operating day rolling averages (or, if applicable, rolling weighted average emission rates (WAERs) if emissions averaging is used) are reported quarterly in XML format for all parameters (including Hg, HF, HCl, and SO_2). However, instead of providing these rolling averages in separate, stand-alone reports, they are incorporated into the quarterly compliance reports required under 40 CFR 63.10031(g) (see section IV.A.(9) of this preamble, below).

(5) Revised paragraphs (a)(1), (2), and (5) of 40 CFR 63.10031 clarify the electronic reporting requirements for the Hg, HCl, HF, SO_2, and additional CMS. Specifically:

(i) Paragraph (a)(1) requires the electronic reporting requirements of appendix A to be met if Hg CEMS or sorbent trap monitoring systems are used.

(ii) Paragraph (a)(2) requires the electronic reporting requirements of appendix B to be met, with one important qualification, if HCl or HF monitoring systems are used. Until December 31, 2023, if PS 18 in part 60, appendix B is used to certify an HCl monitor and Procedure 6 in part 60, appendix F is used for on-going QA of the monitor, EGU owners or operators will temporarily report only data that the existing programming of ECMPS is able to accommodate, *i.e.,* hourly HCl emissions data and the results of daily calibration drift tests and RATAs; records are to be kept of all of the other required certification and QA tests and supporting data. The reason for this temporary, limited reporting is that PS 18 and Procedure 6 were not published until July 7, 2015; therefore, it was not possible to specify recordkeeping and reporting requirements for them in the original version of appendix B. Now that PS 18 and Procedure 6 have been finalized, this rule adds the necessary recordkeeping and reporting requirements, and the interim reporting for HCl will be discontinued as of January 1, 2024 (for further discussion, see section IV.C of this preamble).

(iii) Paragraph (a)(5) clarifies the electronic reporting requirements for the SO_2 CEMS and the additional monitoring systems under MATS. Sources currently reporting SO_2 mass emissions under the Acid Rain Program or Cross-State Air Pollution Rule already meet these requirements, except for paragraphs (a)(5)(iii)(C) and (E), which require, respectively, quarterly reporting of an hourly SO_2 emission rate data stream in units of the applicable MATS standard (*i.e.,* pounds per British thermal units (lb/MMBtu) or pounds per megawatt hours (lb/MWh)) and certification statements from the responsible official. Separate certification statements are required for the 40 CFR part 75 programs and MATS. (*Note:* For consistency with the changes described in items (i) through (iii), immediately above, 40 CFR 63.10031(f)(3) is removed and reserved).

(6) Paragraphs (b)(1) and (2) of 40 CFR 63.10031 are amended to recognize that some EGUs may have received extensions of their compliance date under 40 CFR 63.6(i)(4). References to

[2] In 2015, the EPA published a technology-neutral performance specification and associated QA test procedures for HCl monitors (see Performance Specification 18 (PS 18) and Procedure 6 in 80 FR 38628, July 7, 2015). That rule added certification and QA test requirements for sources electing to monitor HCl according to PS 18 and Procedure 6. This action requires the results of the appendix B certification and QA tests to be reported electronically for periods beginning on January 1, 2024.

postmark dates for submittal of semiannual compliance reports paragraphs are removed from paragraphs (b)(2) and (4); these reports currently are, and continue to be, submitted electronically through ECMPS as PDF files, until they are superseded by quarterly compliance reports, starting in the first quarter of 2024.

(7) The provision in 40 CFR 63.10031(b)(5), which allows affected EGU owners or operators to follow alternate submission schedules for semiannual compliance reports are discontinued when the interim PDF reporting period ends. When that interim PDF reporting period ends, the uniform submission schedule described in 40 CFR 63.10031(b)(1) through (4) is required for all affected EGUs, so that compliance with this reporting requirement can easily be tracked.

(8) New 40 CFR 63.10031(b)(6) will require EGU owners or operators to discontinue submission of semiannual compliance reports when the interim PDF reporting period ends. The final semiannual compliance report covers the period from July 1, 2023, through December 31, 2023.

(9) EGU owners or operators submit quarterly compliance reports in lieu of the semiannual compliance reports, starting with reports covering the first quarter of 2024 (see 40 CFR 63.10031(g)). The quarterly compliance reports retain many features of the semiannual reports and consolidate them with other reports that were originally required to be submitted separately on different schedules. These compliance reports will be due within 60 days after the end of each calendar quarter, which allows sufficient time to receive the results of stack tests (particularly PM, HCl, and HF tests) performed at or near the end of a calendar quarter. Each quarterly compliance report includes the applicable data elements listed in sections 2 through 13 of appendix E.

The owner or operator's MATS compliance strategy determines which of the data elements in sections 2–13 of appendix E are included in the quarterly compliance reports. If continuous emission monitoring were used to demonstrate compliance on a 30- or 90-boiler operating day rolling average basis, the quarterly compliance reports include all of the 30- or 90-day averages calculated during the quarter. If emissions averaging were used, EGU owners or operators report all of the 30- or 90-group boiler operating day WAERs calculated during the quarter. If periodic stack testing for compliance were performed (including Hg LEE tests and PM tests to set operating limits for PM CPMS), the EGU owner or operator reports a summary of each test completed during the calendar quarter and indicate whether the test has a special purpose (*i.e.,* if it were to be used to establish LEE status or for emissions averaging).

The quarterly compliance reports retain and incorporate the following features of the semiannual compliance reports: (1) Boiler tune-up dates; (2) monthly fuel usage data; (3) process and control equipment malfunction information; (4) reporting of deviations; and (5) emergency bypass information, for certain EGUs that qualify for and elect to use the LEE compliance option for Hg. However, for EGU owners or operators who elect to (or are required to) use CMS to demonstrate compliance, these quarterly reports, to some extent, move away from traditional "exception only" reporting. Currently, reporting of the excess emissions and monitor downtime information described in 40 CFR 63.10(e)(3)(v) and (vi) in PDF files has been required as part of the semiannual compliance reports. That information includes, among other things, identification of excess emissions periods, identification of periods when the monitoring system was inoperative or out of control, the reasons for the excess emission and monitor downtime periods, corrective actions or preventative measures taken, description of repairs or adjustments to inoperative or out-of-control CMS, the total amount of source operating time in the reporting period, and the excess emissions and monitor downtime, expressed as percentages of the source operating time. As explained above, rather than this traditional exception-only reporting, these amendments require all of the 30- (or 90-) boiler operating day rolling averages or WAERs for all parameters to be included in the quarterly compliance reports. In addition, the following elements of the excess emissions summary, with slight modifications, are included in the quarterly compliance reports: (1) The total number of source operating hours in the quarter and (2) the total number of hours of monitoring system downtime for various causes (known and unknown).

As previously noted, the requirement to report deviations is retained in the quarterly compliance reports. Specifically, the revisions to 40 CFR 63.10031(d) require the applicable data elements in section 13 of appendix E to be reported, which include the nature of the deviation (section 13.2), a description of the deviation (section 13.3), and any corrective actions taken (section 13.4). Section 13.3 further specifies the minimum amount of information reported in the description of certain deviations or monitoring downtime (*i.e.,* unmonitored bypass stack usage, emissions or operating limit exceedances, monitoring system outages, and missed or late performance stack tests).

We believe that consolidating information in quarterly compliance reports, as described above, rather than requiring separate submittals of 30- (or 90-) boiler operating day rolling average reports, excess emissions reports, and semiannual compliance reports that come in separately at different times during the year, greatly simplifies reporting and makes it easier for inspectors and auditors to assess compliance with the standards. Also, quarterly, as opposed to semiannual, reporting is advantageous because it shortens significantly the interval between the time that deviation or exceedance reporting on a term longer than quarterly occurs. Draft reporting instructions for the quarterly compliance reports are provided in the rule docket. In response to comments received, these instructions have been modified from a previous draft version.

(10) A new paragraph (c)(10) is added to section 63.10031 and requires malfunction information to be included in the semiannual compliance reports. This is not a new requirement; it was previously found in paragraph (g). However, as explained above, revised paragraph (g) requires quarterly compliance reports to be submitted, starting in 2024. Therefore, to avoid losing the requirement to report malfunction information in the semiannual compliance reports, the former paragraph (g) has been renamed as paragraph (c)(10) and is added to the list of information that must be included in the semiannual reports. The introductory text of paragraph (c) is also amended, to recognize the addition of paragraph (c)(10).

(11) For consistency with the reporting requirements for the other CMS, the regulation does not require source owners or operators using PM CPMS to submit separate quarterly excess emission summary reports in addition to the quarterly compliance reports. After careful consideration of comments on the previous proposal, we are persuaded that sufficient information to assess compliance with the operating limits of a PM CPMS will be provided by: (1) The hourly PM CPMS response data reported in appendix D; (2) the quarterly compliance reports, which specify the operating limit of the PM CPMS, require

deviations from the operating limit and monitoring requirements to be reported, and include summarized results of the PM tests used to develop the operating limits; and (3) the applicable reference method data for the PM tests required to be reported under sections 17–30 of appendix E.

Table 9 to 40 CFR part 63, subpart UUUUU is amended to reflect the transition away from exception-only reporting. The applicability of the recordkeeping and reporting requirements for excess emission and monitor downtime summary reporting in 40 CFR 63.7(c)(8), 63.10(c)(7), and 63.10(e)(3) ends on December 31, 2023, with the phase-out of the semiannual compliance reports.

(12) One commenter on the previous proposal brought to light some inconsistencies in the rule; regarding the way in which periods of monitor downtime should be regarded and reported, *i.e.,* whether or not they are reportable deviations. We thought the April proposal addressed this concern, but other commenters asked for clarification during the current comment period. As the Agency meant to exempt periods of routine QA or quality control (QC) and routine maintenance from deviation reporting but not from monitoring downtime reporting, language in 40 CFR 63.10010(h)(5), (i)(4), and (j)(4) has been clarified, along with the clarifications to 40 CFR 63.10020(b) and (d), 40 CFR 63.10010(h)(6)(i) and (ii), (i)(5)(i) and (ii), and (j)(4)(i)(A) and (B) that were proposed in April. We also clarified the corresponding data elements in section 13 of Appendix E.

In response to comments for clarification concerning reporting of QA test results, which the Agency maintains is mandatory for all CMS, the regulation has been amended at 40 CFR 63.10010 to remove the last sentence in paragraphs (h)(6)(i), (j)(4)(i)(A) and (B); to require the monitoring system performance evaluations of PM CPMS and HAP metals CEMS be reported in paragraphs (h)(7) and (j)(4)(ii), respectively; to require the QA/QC activities for PM CPMS and HAP metals CEMS be reported quarterly in PDF files in 40 CFR 63.10031(k); and to cross-reference the appropriate sections of appendix C, regarding the certification, operation, maintenance, on-going QA, recordkeeping, and reporting requirements for PM CEMS in 40 CFR 63.10010(i).

(13) In all cases in which periodic stack tests (including Hg LEE tests and PM tests that are used to develop PM CPMS operating limits) are performed to demonstrate compliance, the rule retains the requirement for the EGU owner or operator to provide the applicable reference method data in appendix E (*i.e.,* sections 17 *et. seq.*) for each stack test that is performed to demonstrate compliance. Each of these submittals is required to accompany the quarterly compliance report that covers the calendar quarter in which the test was completed. For PM tests that are used to develop PM CPMS operating limits, EGU owners or operators will be required to include the information in 40 CFR 63.10023(b)(2)(vi) as part of the Test Comment data element found in section 17.25 of appendix E.

(14) The applicable reference method data in sections 17 through 30 of appendix E will be required to be provided in XML format, starting with tests completed on or after January 1, 2024, for each RATA of an Hg, SO_2, HCl, or HF monitoring system, and for each RRA, RCA, or correlation test of a PM CEMS. The information in section 31 of appendix E is provided in a PDF file for each test. The appendix E information is submitted concurrently with the summarized electronic test results submitted to ECMPS under appendix A, B, or C, or 40 CFR part 75 (for SO_2 RATAs).

(15) The ECMPS Client Tool is also used to make the following submittals in PDF files:

(i) a detailed report of the current, active PS 11 correlation test, if the EGU owner or operator is using a certified PM CEMS to demonstrate compliance. For correlation tests completed prior to November 9, 2020, the report is due no later than 60 days after that date. For correlation tests completed on or after November 9, 2020, but prior to January 1, 2024, the report is due within 60 days after the date on which the test is completed. (*Note:* For correlations completed on and after January 1, 2024, in lieu of a PDF report, the test results are submitted electronically according to section 7.2.4 of appendix C, together with the applicable reference method data required under sections 17 through 31 of appendix E);

(ii) any initial Notification of Compliance Status issued on or after January 1, 2024; and

(iii) the information specified in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) for startup and shutdown incidents, if an EGU owner or operator is relying on paragraph (2) of the definition of startup in 40 CFR 63.10042. Starting with a report covering the first calendar quarter of 2024, this information is submitted along with the quarterly compliance report. Note that 40 CFR 63.10031(c)(5)(iii) through (v), which require the semiannual compliance reports to include the hourly CEMS and operating parameter data recorded during startup and shutdown events have not been carried over to this PDF report because this information is duplicative of the hourly data reported electronically in the quarterly emissions reports. Startup and shutdown hours are flagged in the emissions reports and are identifiable for auditing purposes.

(16) To accommodate the required PDF reports, the applicable data elements in 40 CFR 63.10031(f)(6)(i) through (xii) are entered into the ECMPS Client Tool at the time of submission of each PDF file. Note that the amendment to data element (xii) replaces the word ''conducted'' with the word ''completed.''

(17) Although the ECMPS Client Tool is used to submit the required reports and notifications described in revised 40 CFR 63.10031 and Table 8, ECMPS does not evaluate any of the PDF submittals or any of the XML-formatted reference method data from sections 17 through 31 of appendix E. Instead, these reports and notifications are transmitted directly through the EPA's Central Data Exchange using CEDRI unaltered. ECMPS does, however, perform electronic checking of the hourly PM CEMS data and the summarized RATAs, PM CEMS correlation tests, RRAs, and RCAs that are submitted in XML format, in a manner that is consistent with the way that certification and QA test results are evaluated under the Acid Rain and Cross-State Air Pollution Rule programs. ECMPS uses the results of these evaluations to assess the quality-assured status of the Hg, HCl, HF, SO_2, or PM emissions data. In addition, ECMPS performs basic checks of the information in the quarterly compliance reports, *e.g.,* checking for completeness and proper formatting, but leaves compliance assessment to those who review the reports. The EPA intends for all of these various data submissions to work together in a complementary fashion to enable meaningful compliance determinations. It is essential that any problems with the data identified by the reviewers are communicated to all involved and resolved appropriately. For example, if, for a particular Hg RATA, a review of the reference method data shows that the method was not done properly, the RATA would be invalidated. If, at the time of this discovery, the deadline for performing the RATA has passed and the allowable grace period has also expired, this improper RATA results in invalidation of hourly emissions data, from the expiration of the grace period until a valid RATA is performed and

passed. Consequently, resubmission of quarterly emissions reports, recalculation of 30-day compliance averages, and resubmission of quarterly compliance reports may become necessary.

B. Revisions to Appendix A

Based on comments received, six sections of appendix A, *i.e.,* sections 5.1.1, 7.1.1.2.1, 7.1.3.3, 7.1.4.3, 7.1.8.2 and 7.2.3.1 are amended and described, here. The requirement in section 5.1.1 regarding required QA testing is clarified to allow daily calibrations to be performed offline and to specify that ongoing QA testing other than RATAs can be performed at no particular load levels.

The requirement in section 7.1.1.2.1 for electronic reporting is expanded to include emission controls. As part of the re-examination of the list of data elements that compose a complete test report, suggested by commenters, this data element was found to be missing in this section. The requirement in sections 7.1.3.3, 7.1.4.3, and 7.1.8.2 to report Hg concentrations and emission rates to three significant figures is revised so that Hg concentrations in micrograms per standard cubic meter (μg/scm) and Hg emission rates in pounds per trillion British Thermal Units or pounds per gigawatt-hour are reported with one leading non-zero digit and one decimal place, in scientific notation. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged.

The requirement in section 7.2.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 is revised. For new EGUs or EGUs that install Hg monitoring systems in order to switch from another MATS-compliant methodology to Hg monitoring, the monitoring plan information is submitted at least 21 days prior to the date on which certification testing begins. However, for EGUs implementing Hg monitoring with a previously-certified Hg monitoring system, the monitoring plan may be submitted prior to or concurrent with the first quarterly emissions report—provided that the monitoring plan is in place when the first emissions report is submitted so that the ECMPS Client Tool is able to evaluate the data.

C. Revisions to Appendix B

For affected source owners or operators desiring to continuously monitor HCl emissions, the original version of appendix B required the monitoring system to be certified according to PS 15 in appendix B to 40 CFR part 60. However, PS 15 applies only to Fourier Transform Infrared (FTIR) Spectroscopy monitoring systems; therefore, the use of other viable HCl monitoring technologies was excluded. In view of this, the EPA regarded the requirement to use PS 15 exclusively as a temporary measure, until a technology-neutral PS for HCl monitors could be developed and published. In section 3.1 of appendix B, the Agency stated its intention to publish such a PS in the near future together with appropriate on-going QA requirements and to amend appendix B to accommodate their use. This additional PS, (PS 18 in 40 CFR part 60, appendix B), and the on-going QA test requirements (Procedure 6 in 40 CFR part 60, appendix F) were published on July 7, 2015 (80 FR 38628, July 7, 2015).

Now that technology-neutral certification and QA test requirements for HCl monitors are promulgated, EGU owners or operators may use any viable HCl monitoring technology that can meet PS 18. However, in order for ECMPS to accommodate all of the tests required under PS 18 and Procedure 6, additional time must be allotted for software development. In view of this, 40 CFR 63.10031(a)(2) is revised, as previously noted, to require only information that is compatible with the existing programming of ECMPS to be reported electronically through December 31, 2023; this includes hourly HCl emissions data and the results of daily calibration drift tests and RATAs. In the interim, EGU owners or operators are required to keep records of all of the other certification and QA tests, which would be reported starting in 2024.

The title to section 2.3 of appendix B is revised by deleting the reference to FTIR-only monitoring systems. In addition, the recordkeeping and reporting sections of appendix B (*i.e.,* sections 10 and 11) are amended. Based on comments received, sections 10.1.3.3 and 10.1.7.2, HCl and HF concentrations (μg/scm) and emission rates (lb/MMBtu or lb/MWh) are reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the concentrations and rates to three significant figures. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged. Sections 10 and 11 also specify the data elements that are recorded and reported for each of the tests required by PS 18 and Procedure 6. The revisions make a clear distinction between the tests required for FTIR monitors that are following PS 15 and the test requirements of PS 18 and Procedure 6. Some of the tests in PS 18 and Procedure 6 are similar to tests for which ECMPS programming exists. For example, the "measurement error test" required for initial certification of the HCl monitor is structurally the same as a 40 CFR part 75 linearity check. Other tests have no counterpart in 40 CFR part 75 and require special software development and reporting instructions. Note that electronic reporting of these tests through ECMPS would have been required if PS 18 and Procedure 6 had been in place when the original MATS rule was published. In view of this, for source owners or operators electing to use HCl CEMS, the amendments to section 11 of appendix B introduce no unnecessary reporting burden. The results of certification and on-going QA tests are reported electronically for all CEMS required under this rule in order for ECMPS to assess the quality-assured status of the emissions data. The Agency also notes that not all of the tests described in section 11 of appendix B are required for all HCl monitors. For example, some of the tests (*i.e.,* beam intensity, temperature, and pressure verifications) are specific to integrated path-CEMS, and Procedure 6 would offer a choice among three different types of audits (*i.e.,* cylinder gas audits, relative accuracy audits, or dynamic spiking audits) for the required quarterly QA tests. In addition, based on comments received, the reporting requirements for the interference check (which is not necessarily performed on each individual analyzer) are reduced.

For each RATA of HCl CEMS that are completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E are submitted along with the electronic summary of results required under section 11 of appendix B. To the extent practicable, these data are submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, as previously noted, this may not always be possible, particularly when the RATA is done near the end of a calendar quarter. The EPA test Methods 26 and 26A, unlike instrumental test methods, require

laboratory analyses of the collected samples and cannot provide test results while the test team is on-site. In view of this, section 11.4 of appendix B allows the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status may be claimed for the emissions data affected by the test, starting from the date and hour in which the test is completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period change from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data are invalidated, and resubmission of the affected emissions report(s) is required.

Because a technology-neutral PS for HCl CEMS was not available prior to April 16, 2015 (which was the compliance date for many of the existing EGUs), EGU owners or operators interested in monitoring HCl either had to use an FTIR system and follow PS 15 or implement another compliance option (*e.g.,* quarterly emission testing) while awaiting publication of PS 18 and Procedure 6. In light of this, section 11.5.1 of appendix B now clarifies when electronic reporting of hourly HCl emissions data begins. There are two possibilities. In the first case, the monitor is used for the initial compliance demonstration. This could either apply to a certified FTIR monitor following PS 15 or to a certified monitor following PS 18, if the owner or operator of the EGU received an extension of the compliance date. In this case, EGU owners or operators begin reporting hourly HCl emissions through ECMPS with the first operating hour of the initial compliance demonstration. In the second case, another option, such as stack testing, is used for the initial compliance demonstration and continuous monitoring is implemented at a later time. In that case, EGU owners or operators begin reporting hourly HCl emissions reporting through ECMPS with the first operating hour after successfully completing all required certification tests of the CEMS. In either case, the first quarterly emissions report submittal is for the calendar quarter in which emissions reporting begins.

The requirement in section 11.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 is revised. For new units or units that install HCl and/or HF monitoring systems in order to switch from another MATS-compliant methodology to HCl and/or HF monitoring, the monitoring plan information must be submitted at least 21 days prior to the date on which certification testing begins. However, for units implementing HCl and/or HF monitoring with a previously-certified monitoring system, the monitoring plan may be submitted prior to or concurrent with the first quarterly emissions report.

Section 11.4.13 clarifies the reporting requirements for stack gas flow rate, moisture, and diluent gas monitoring systems that are used for certification, recertification, diagnostic, and QA tests are from section 10.1.8.2 of this appendix; such systems are also certified and quality-assured according to 40 CFR part 75 of this chapter.

D. Addition of Appendix C

A new appendix, *i.e.,* appendix C, is added to subpart UUUUU of 40 CFR part 63. Appendix C sets forth the continuous monitoring and reporting requirements for filterable PM. Appendix C is structurally similar to appendices A and B, but there is one notable difference. Appendix C includes provisions for installation and certification of the PM CEMS, and for on-going QA of the data from the CEMS. The monitoring system is certified according to PS 11 in 40 CFR part 60, appendix B, and for the on-going QA tests, Procedure 2 to 40 CFR part 60, appendix F is being required.

After consideration of comments received, the EPA has concluded that all PM concentrations will be reported in units of measure that are consistent with the PM CEMS correlation. For example, if the PM CEMS measures in units of milligrams per actual cubic meter (mg/acm) and the concentrations used to derive the correlation curve are in those same units, then the hourly PM concentrations are recorded and reported in mg/acm. Section 7.1.9.5 of appendix C also requires the reference method readings and the PM CEMS responses obtained in the RRAs and RCAs to be reported in the same units of measure as the PM CEMS correlation curve.

Sections 7.1.3.3 and 7.1.7.2 require PM concentrations and emission rates (lb/MMBtu or lb/MWh) to be reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the concentrations and rates to three significant figures. Conventional rounding is used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place is rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place remains unchanged.

The frequencies for the on-going QA tests and the rules for data validation are presented in section 5 of appendix C. In response to numerous requests from commenters, the frequency and data validation rules for the RCAs and RRAs are similar, but not identical to, provisions of 40 CFR part 75. The frequency of these tests follows the familiar calendar quarter and grace period reporting plan. An RRA is required once every 4 calendar quarters and an RCA is required once every 12 calendar quarters. A grace period is provided (*i.e.,* 720 operating hours or 1 calendar quarter, whichever comes first), to cover cases where circumstances beyond the control of the owner or operator prevent the required test from being completed on schedule. In addition, as explained in detail below, section 7.2.4 of appendix C allows the use of provisional data for up to 60 days after completion of an RRA, RCA, or PM CEMS correlation test.

The procedures for calculating the PM emission rates in units of the emission standard are found in section 6. These calculation methods are basically the same as those used for Hg monitoring systems and for HCl and HF CEMS in appendices A and B. The recordkeeping and reporting requirements are found in section 7. Section 7.1 requires monitoring plan records and hourly records of operating parameters, PM concentration, diluent gas concentration, stack gas flow rate and moisture content, and PM emission rates are kept. Sections 7.2.3 and 7.2.4, respectively, require monitoring plan information and the results of certification, recertification, and QA tests are reported electronically. For consistency with these revisions to appendices A and B, section 7.2.3.1 specifies that for new units or units installing PM CEMS in order to switch from another MATS-compliant methodology to PM monitoring, the electronic monitoring plan information is submitted at least 21 days prior to the commencement of certification testing. However, for EGUs with previously-certified PM CEMS that elect to implement PM monitoring, the monitoring plan information may be submitted prior to or concurrent with the first quarterly emissions report. Section 7.2.5 requires quarterly electronic emissions reports are submitted within 30 days after the end of each calendar quarter. All electronic reports are submitted using the ECMPS Client Tool. However, for EGUs that began using the PM CEMS compliance option prior to January 1, 2024, electronic reporting of monitoring plan information, certification and on-going QA test results, hourly PM emissions

data, and the applicable reference method data in appendix E does not begin until January 1, 2024, to allow time for software development and beta testing. Until then, records of the required information and tests are kept. For EGUs that certify and begin using PM CEMS on or after January 1, 2024, reporting of hourly PM emissions data begin with the first operating hour after successful completion of the initial PM CEMS correlation test.

For PM CEMS correlations, RRAs, and RCAs completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E are submitted along with the electronic test summary required under section 7.2.4 of appendix C. To the extent practicable, the electronic test results and the appendix E reference method data are submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, the EPA recognizes that this is not always possible, particularly when an RRA or RCA is done near the end of a calendar quarter. The EPA test Methods 5 and 5D, unlike instrumental test methods, require laboratory analyses of the collected samples and generally cannot provide test results while the test team is on-site. In view of this, section 7.2.4 of appendix C allows the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status may be claimed for the emissions data affected by the test, starting from the date and hour in which the test is completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period changes from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data would be invalidated, and resubmission of the affected emission report(s) is required.

E. Addition of Appendix D

A new appendix, *i.e.,* appendix D, is added to subpart UUUUU of 40 CFR part 63. Appendix D sets forth the monitoring and reporting requirements for EGU owners or operators who elect to use a PM CPMS to demonstrate continuous compliance. Structurally, appendix D is similar to appendices A, B, and C. However, the criteria for system design and performance, the procedures for determining operating limits, data reduction, and compliance assessment, and certain recordkeeping requirements are not detailed in the appendix; rather, the applicable sections of the MATS rule are cross-referenced (see sections 2.1 through 2.4, 3.1 introductory text, and section 3.1.1.1 of the appendix).

Section 3.1.1.2 requires the ECMPS Client Tool to be used to create and maintain an electronic monitoring plan. The PM CPMS is defined as a monitoring system with a unique system ID number. The monitoring plan also includes the current operating limit (with units of measure), the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

The rule requires operating parameter records for each hour of operation of the affected EGUs, including the date and hour, the EGU or stack operating time, and a flag to identify exempt startup and shutdown hours. Hourly average PM CPMS output values are reported for each hour in which a valid value of the output parameter is obtained, in units of milliamps, PM concentration, or other units of measure, including the instrument's digital signal output equivalent. A special code is required to indicate operating hours in which valid data are not obtained. The percent monitor data availability is calculated in the manner established for SO_2, carbon dioxide (CO_2), oxygen (O_2), or moisture monitoring systems in 40 CFR 75.32.

Sections 3.2.2 and 3.2.3, respectively, require notifications (provided in accordance with 40 CFR 63.10030) and electronic monitoring plan submittals at specified times. For EGUs using the PM CPMS compliance option prior to January 1, 2024, the electronic monitoring plan information is submitted prior to or concurrent with the first quarterly report. For EGUs switching to the PM CPMS compliance option on or after January 1, 2024, the electronic monitoring plan is submitted no later than 21 days prior to the PM test that establishes the initial operating limit. Section 3.2.4 requires the electronic quarterly reports to be submitted within 30 days after the end of each calendar quarter. Reporting of hourly responses from the PM CPMS begins either with the first operating hour of 2024 or the first operating hour after completion of the stack test that establishes the initial operating limit, whichever is later. Each quarterly report includes a compliance certification with a statement by a responsible official that to the best of his or her knowledge, the report is true, accurate, and complete.

In addition to the electronic quarterly reports, the rule requires reporting of deviations from the operating limit in the quarterly compliance reports required under 40 CFR 63.10031(g). Further, section 3.2.5 of appendix D requires the results of each performance stack test for PM that is used to establish an operating limit are reported electronically in the relevant quarterly compliance report. For PM tests completed on and after January 1, 2024, the applicable appendix E reference method data are also submitted along with the relevant quarterly compliance report.

F. Addition of Appendix E

A new appendix, *i.e.,* appendix E, is added to subpart UUUUU of 40 CFR part 63. Sections 2 through 13 of appendix E list the data elements that are reported in XML format in the quarterly compliance reports required under 40 CFR 63.10031(g), starting with reports covering the first quarter of 2024.

The MATS compliance strategy (*e.g.,* whether the EGU owner or operator elects to perform periodic stack testing, continuous monitoring, or to use emissions averaging) and the events that occur during each calendar quarter determine which data elements in sections 2 through 13 are included in the quarterly compliance reports. As noted in section V.A.(9) of this preamble, updated reporting instructions for these compliance reports are found in the rule docket.

For reasons stated in the previous proposal's Response to Comments document (which is available in the rule docket [3]), the basic provisions of sections 14 through 21 of appendix E, requiring details of the reference methods used for performance stack tests and CMS performance evaluations are reported in XML format are retained. The rule also retains the requirement in section 22 of appendix E to provide reference method test information that is incompatible with electronic reporting as PDF files, although it has been renumbered as section 31 and modified to include a cross-reference to 40 CFR 63.7(g), which describes the contents of a performance test report. The applicable reference method information in appendix E is provided for each stack test; each RATA of a Hg, HCl, HF, or SO_2 monitoring system; and each RRA, RCA, or correlation test of a PM CEMS that is completed on and after January 1, 2024.

To address concerns raised by the commenters about portions of the 2016 proposed rule [4] (the previous proposal), specifically, the reporting requirements in sections 17 through 21 of proposed appendix E, the data element lists are

[3] See EPA–HQ–OAR–2018–0794 at *https://www.regulations.gov/.*

[4] As mentioned in footnote 1, see 81 FR 67062, September 29, 2016.

revised and reformatted to correspond to the compliance options described in section 16 of appendix E. Explicitly, sections 17 through 30 replace previously proposed sections 17 through 21. Commenters pointed out, and the Agency concurs, that some of the previously proposed data elements are either unnecessary, inapplicable to MATS, or duplicative of information in other MATS reports; these elements have been removed from the lists and include:

- Previously proposed 7.1.3.3.1 of appendix C to this subpart;
- Previously proposed 7.1.3.3.2 of appendix C to this subpart;
- Previously proposed 7.1.3.3.3 of appendix C to this subpart;
- Previously proposed 7.1.3.4 of appendix C to this subpart;
- Previously proposed 10.4 of appendix E to this subpart;
- Previously proposed 10.5.1 of appendix E to this subpart;
- Previously proposed 10.5.2 of appendix E to this subpart;
- Previously proposed 10.5.7 of appendix E to this subpart;
- Previously proposed 17.28 of appendix E to this subpart;
- Previously proposed 17.30 of appendix E to this subpart;
- Previously proposed 17.37 of appendix E to this subpart;
- Previously proposed 18.21 of appendix E to this subpart;
- Previously proposed 19.29 of appendix E to this subpart;
- Previously proposed 20.4 of appendix E to this subpart;
- Previously proposed 20.15 of appendix E to this subpart;
- Previously proposed 20.17 of appendix E to this subpart;
- Previously proposed 20.21 of appendix E to this subpart;
- Previously proposed 20.25 of appendix E to this subpart;
- Previously proposed 20.30 of appendix E to this subpart;
- Previously proposed 20.36 of appendix E to this subpart;
- Previously proposed 20.37 of appendix E to this subpart;
- Previously proposed 20.41 of appendix E to this subpart;
- Previously proposed 20.42 of appendix E to this subpart;
- Previously proposed 20.44 of appendix E to this subpart;
- Previously proposed 20.46 of appendix E to this subpart;
- Previously proposed 20.52 of appendix E to this subpart;
- Previously proposed 21.14 of appendix E to this subpart; and
- Previously proposed 21.28 of appendix E to this subpart.

Reporting instructions for sections 17 through 30 have been developed. These draft example instructions are included in the rule docket.

The reorganized data element lists and corresponding instructions clarify which data elements are reported for each compliance option and explain how the data are reported. Several new data elements are in the lists, to enable the ECMPS Client Tool to be used, to enhance the quality of the data, and to facilitate compliance. As mentioned in VI.C of this preamble, this action is expected to reduce overall annual source burden. The Agency believes that the addition of these data elements is offset by the removal of others, the change to a consistent submission frequency, and the merger of separate electronic reporting systems into just one electronic reporting system such that overall annual source reporting burden is reduced by 11,000 hours. The new data elements to be reported are as follows:

- "Part." The previous proposal would only have required the "Subpart" to be reported. To avoid any possible confusion with other EPA regulations, both the CFR part (63) and subpart (UUUUU) need to be included in the reports.
- "APS Flags." For 3-level pre-test calibrations, system bias, and drift checks, instrumental EPA test Methods 3A and 6C require certain acceptance criteria to be met. For each of these tests, there is a main PS and an alternative specification. The main PS is expressed as a percentage of span, while the alternative specification is the absolute difference between a reference value and the measured value. In view of this, it is important to know which specification has been applied to ascertain whether the test was successful or not. Therefore, alternative performance specification (APS) flags are to be added for the pre- and post-test calibrations, bias checks, and drift checks. An APS flag of "0" indicates that the reported test result is based on the main PS, whereas an APS flag of "1" means that the reported result is based on the APS.
- "Test Comment." This text field is added to allow the affected sources to provide additional, pertinent information about a particular test.
- "Run Begin Date" and "Run End Date." These two data elements replace the previous proposed element, "Run Date," to cover cases where a test run begins on one day and ends on another (*e.g.,* if a run begins late at night and ends early the next morning).
- "Converted Concentration and Units of Measure." These data elements apply to correlation tests and performance audits (RRAs and RCAs) of PM CEMS. The reference method used for these tests is EPA test Method 5 (or, if applicable, 5D). The PM concentrations obtained from EPA test Method 5 or 5D are expressed in units of grams per dry standard cubic meter (g/dscm). However, consistent with section 8.6 of PS 11, appendix C of MATS requires all PM concentrations to be reported in units of measure that are consistent with the PM CEMS correlation curve. Most PM CEMS measure concentration in units of milligrams per actual cubic meter (mg/acm); others may measure at a certain temperature (*e.g.,* mg/acm at 160 degrees Celsius), and still others may measure on a dry basis. Therefore, in addition to reporting the EPA test Method 5 test results in units of g/dscm, the converted PM concentrations must be reported in units consistent with the PM CEMS correlation curve.
- "Average Sampling Rate and Units of Measure." These data elements are specific to EPA test Method 30B. That EPA test Method 30B requires a post-test leak check of each sampling train. The leakage rate must not exceed 4 percent of the average sampling rate. Therefore, to assess compliance with this specification, both the leakage rate and the average sampling rate must be reported. The previous proposed rule only required the leakage rate to be reported.
- "Control Device Code." This data element refers to the control device code or control technology National Emission Inventory code associated with the EGU (or group of EGUs sharing a common stack). Providing this data element helps in EGU categorization and emission factor development.
- "Corresponding Reference Method(s), if applicable." This data element allows pollutant reference method run data to be associated with concurrent measurements of the stack gas flow rate using EPA test Method 2, and/or CO_2 or O_2 concentration using EPA test Method 3A, and/or stack gas moisture content using EPA test Method 4. Reporting this data element is necessary to ensure test methods were conducted properly so that emission rates can be calculated.
- "Corresponding Reference Method(s) Run Number, if applicable." This data element provides the run number of concurrent reference method tests. The assigned run number of the EPA test Method 1 through 4 or EPA test Method 3A tests conducted at the same time as a reference method test needs to be reported in order to ensure the

methods were conducted properly so that emission rates can be calculated.

• "Pollutant Concentration Units of Measure." This data element provides the appropriate units of measure code for the pollutant or analyte concentration, and reporting it is necessary for comparison to the standard.

• "Pollutant Emission Rate." This data element is the pollutant emission rate expressed in the units of the standard, and reporting it is necessary for comparison with the standard.

• "Pollutant Emission Rate Units of Measure (in units of the standard)." This data element is the units of the standard specified in Table 1 or 2 of this subpart. Reporting it is necessary for comparison to the standard.

• "Process Parameter Units of Measure." This data element identifies the process rate parameter unit of measure: GWh/h, MWh/h, TBtu/h, or MMBTU/h, and reporting it is necessary to ensure accurate comparisons between runs and for emission factor development purposes.

• "Total Pollutant Mass Trap A" and "Total Pollutant Mass Trap B." These data elements refer to the total Hg mass measured by Train A and Train B, respectively, in the appropriate units of measure. Reporting these values is necessary for QA purposes and for comparison with the standard.

• "Method Detection Limit (MDL)." This data element refers to the minimum amount of analyte that can be detected and reported. Reporting it is necessary for calculation checks and for emissions factor development purposes.

• "Percent Spike Recovery." This data element refers to the spike recovery in percent, which is required to be reported by section 8.2.6.2 in EPA test Method 30B using Equation 30B–1.

• "F-Factor (F_c)." This data element expands the current F-factor choices to include the carbon F-Factor, which is based on the ratio of CO_2 to heat content of fuel. Reporting it allows conversion from mass per volume to mass per heat input for those who choose to use emissions testing.

• "Compliance Limit Basis (Heat Input or Electrical Output)." This data element identifies the denominator of the compliance units selected for an existing EGU by its owner or operator. Reporting this decision is necessary for comparison of results with the standard.

• "Heat Input or Electrical Output Unit of Measure." This data element specifies the denominator of the compliance unit that corresponds to the means of compliance selected for an existing EGU by its owner or operator. Reporting this unit is necessary for comparison of results with the standard and for emission factor development purposes.

• "Pollutant Concentration." This data element expands the already-existing "Emissions Concentration" data element to include pollutants. Reporting this data element is necessary for comparison of results with the standard and for emission factor development purposes.

• "Stack Gas Flow Rate—dscfm." This data element clarifies the already-existing "Volumetric Flow Rate—scfm" data element so that reporters will know to report their EGU's dry stack gas flow rate. Reporting this data element is necessary for calculation purposes.

Several commenters[5] on the September 29, 2016, proposed rule (*i.e.,* the previous proposal) suggested that those proposed revisions included a significant amount of duplicative reporting, which should be eliminated. In response to the concerns expressed by the commenters, the Agency examined the XML data element lists twice—once in 2016 and recently after closure of the current comment period—for stack tests and CMS performance evaluations, in order to identify duplicative reporting and eliminate it where possible. The following evaluations were made:

First, the data elements in sections 2 through 13 of appendix E (for the quarterly compliance reports) were compared against the data elements in sections 17 through 30 of appendix E (corresponding to the detailed reference method data for stack tests and CMS performance evaluations). The two lists were found to have 20 data elements in common, but at least nine of these elements (*i.e.,* Source ID (Sampling Location), Test Number, Run Number, Run Begin Date, and a few others) are to be included in both XML schemas to properly link the individual stack test summaries in the compliance report with the corresponding reference method data.

Second, the data elements listed in the reporting sections of appendices A, B, and C of MATS, requiring the results of CMS performance evaluations (*i.e.,* RATAs, RRAs, and RCAs) to be reported using the ECMPS Client Tool, were compared against the corresponding reference method data elements in sections 17 through 30 of appendix E. Only 12 data elements common to the appendix E and ECMPS Client Tool schemas were found. This is not surprising because appendices A, B, and C require only summarized results of CMS performance evaluations—details of the Reference Method tests are not reported. Of the 12 data elements common to the appendix E and ECMPS lists, 10 of them are to be included in both schemas to properly link the CMS test summaries with the corresponding reference method data.

In view of these two evaluations, the EPA concludes that most of the duplicative reporting found among the various data element lists is necessary to ensure that the results of stack tests and CMS performance evaluations summarized in the quarterly compliance reports and the QA test submittals to the ECMPS Client Tool can be matched with the corresponding reference method data. Further, the remainder of the duplicative reporting is minimal, rather than "significant" as asserted by some commenters. The Agency believes that it is best not to modify the data element lists to eliminate this small amount of duplicate reporting. Although the deadlines for submitting the quarterly compliance reports and the corresponding reference method data are the same (*i.e.,* within 60 days after the end of the quarter), the two XML reports might not be submitted concurrently. So, if, for instance, the compliance report is submitted prior to the reference method data, and certain data elements are found only in the reference method report, a thorough assessment of compliance may not be possible until the reference method report is received. Similar considerations apply to the summarized CMS performance evaluations in the ECMPS Client Tool and the corresponding reference method data, if the two XML reports are not submitted concurrently.

V. Revisions to Other Rule Text

The revisions to 40 CFR 63.10031 necessitate changes to other sections of the rule to ensure that the rule is internally consistent. Based on comments received, revisions were made to clarify certain reporting requirements, to rectify inadvertent omissions, and to correct inconsistencies. The affected rule sections are as follows:

(a) The introductory text of paragraphs (a)(2), (b), and (h)(3)(iii) of 40 CFR 63.10005 is revised. The amendment to paragraph (a)(2) clarifies that Hg compliance may either be determined on either a 30- or 90-boiler operating day rolling average basis. For consistency with appendix E, revised paragraph (b) notes that when auxiliary stack gas flow rate or moisture data are needed to supplement a performance stack test conducted with an isokinetic

[5] Commenters 20612, 20597, and 20609 on Docket ID No. EPA–HQ–OAR–2009–0234.

method such as EPA test Method 5 or EPA test Method 26A, separate EPA test Method 2 or EPA Method 4 tests are not needed to satisfy the requirements of 40 CFR 63.10007 and Table 5. Data from the isokinetic method may be used to determine the stack gas flow rate and moisture content. Revised section (h)(3)(iii) addresses a commenter's request for clarification on how to calculate a 30-day Hg LEE test average.

(b) Section 40 CFR 63.10009 is amended as follows. The second and third sentences in paragraph (a)(2) are revised to clarify the types of data that may be used to determine WAERs. Data from Hg CEMS, sorbent trap monitoring systems, but not LEE tests, may be used for Hg emissions averaging. For other pollutants, both CEMS data and stack test data may be used. The last sentence of paragraph (a)(2) is amended to clarify that if any EGU in an averaging group operates on *any* of the days in a 30- or 90-group boiler operating day compliance period (regardless of how many or how few), the emissions data from that EGU on those days must be included in the weighted average. Since averaging of Hg emissions is permitted on a 30-group boiler operating day basis, Equations 2a and 2b in 40 CFR 63.10009 apply to Hg as well as other pollutants. Therefore, the words "for pollutants other than Hg" are removed from the introductory text of paragraph (b)(2), and in the nomenclature of Equation 2a, the words "or sorbent trap monitoring" are added after the words "unit i's CEMS" in the definition of the term "Her_i." Finally, for completeness, Equations 3a and 3b are amended by removing the terms that pertain to quarterly stack testing. Equations 3a and 3b apply *only* to the 90-group boiler operating day Hg WAER limit for coal-fired units. Coal-fired EGUs do not have the option to use quarterly stack testing to demonstrate compliance; if a coal unit does not qualify as a LEE, Hg emissions must be continuously monitored.

(c) As explained in section IV.A(11) above, paragraphs (h)(6) and (7), (i), (j)(4)(i), and (j)(4)(ii) of 40 CFR 63.10010 are revised to resolve inconsistencies in the text.

(d) Section 40 CFR 63.10011(e) is revised to require Notifications of Compliance Status for initial compliance demonstrations include the information specified in 40 CFR 63.10030(e), and are submitted in accordance with 40 CFR 63.10031(f)(4) or 40 CFR 63.10031(h), as applicable. This change is necessary to cover initial Notifications of Compliance Status for both new and existing EGUs. The interim reporting process described in 40 CFR 63.10031(f)(4) and the on-going reporting process in 40 CFR 63.10031(h) require these Notifications to be submitted as PDF files, through ECMPS.

(e) Sections 40 CFR 63.10011(g)(3), 40 CFR 63.10021(i), and two sentences in Items 3 and 4 of Table 3 are revised to be consistent with 40 CFR 63.10031(i) and Table 8. For EGU owners or operators relying on paragraph (2) of the definition of startup in 40 CFR 63.10042, 40 CFR 63.10031(i) retains the requirement for the parametric data and other information in 40 CFR 63.10031(c)(5) be included in the semiannual compliance reports, for startup and shutdown incidents that occur during the interim reporting period. However, in view of the phase-out of the semiannual compliance reports, for startup and shutdown incidents that occur during each subsequent calendar quarter, starting with the first quarter of 2024, the supplementary information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) is required to be provided as a separate PDF submittal, along with the quarterly compliance report. As previously noted, the requirements in 40 CFR 63.10031(c)(5)(iii), (iv), and (v) to report hourly average CEMS and operating parameter values for startup and shutdown events are not incorporated into this PDF report because they are duplicative of the hourly values reported under appendices A through D. Startup and shutdown hours are flagged in the quarterly emissions reports and can be identified for auditing purposes.

(f) Paragraphs (e)(9), (f), and (h)(3) of 40 CFR 63.10021 are revised as follows. Paragraph (e)(9) is unchanged from the previous proposal, except that the December 31, 2017, and January 1, 2018, transition dates are replaced with December 31, 2023, and January 1, 2024, respectively. References to the EPA's ERT and the CEDRI interface from paragraph (f) are removed and replaced with a general statement requiring all applicable notifications and reports be submitted through the ECMPS Client Tool. Three statements are added at the end of paragraph (f). The first statement, regarding a submission deadline that occurs on a weekend or Federal holiday, extends the deadline to the next business day. The second statement addresses a submission deadline that occurs when the ECMPS system is offline for maintenance; in that case, the deadline is extended until the first business day after the system outage. The third statement clarifies that using the ECMPS Client Tool to submit a required MATS report or notification satisfies the requirement in 40 CFR 63.13 of the General Provisions to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional office or state agency whose delegation request has been approved. Finally, we are removing paragraph (h)(3) because it is redundant with paragraph (i) and, therefore, unnecessary.

(g) Previous section 40 CFR 63.10030(e)(7)(i) is removed for the following reasons. The requirement in the current rule for an initial Notification of Compliance Status to include summarized results of annual and triennial performance tests which have not been done yet is in an incorrect location. The requirement to submit these test summaries belongs in 40 CFR 63.10031, not 40 CFR 63.10030. Text similar to 40 CFR 63.10030(e)(7)(i) does, in fact, exist in 40 CFR 63.10031. Specifically, 40 CFR 63.10031(c)(7) requires the annual and triennial test results be summarized in the semiannual compliance reports. Note, however, that when the semiannual compliance reports are phased out in 2024, the requirement to provide summarized results of these tests does not end; the test summaries must be included in the quarterly compliance reports under 40 CFR 63.10031(g).

The requirements of section 40 CFR 63.10030(e)(7)(iii) are amended to rectify an inadvertent oversight. In the 2016 Technical Corrections rule package, the EPA proposed a set of conditions that would allow an EGU owner or operator to submit a request for permission to switch from a heat input-based standard to an output-based standard. One of the proposed conditions in paragraph (e)(7)(iii)(A)(*3*) required a demonstration of compliance with both emission limits based on "performance stack test results completed within 30 days prior to" the request. A commenter objected to limiting this demonstration to "stack test" data and asked the EPA to allow any data collected up to 45 days prior to the request, including CEMS data, be used. In the Response to Comments document, the EPA agreed with these commenters, but did not make the necessary changes to paragraph (e)(7)(iii)(A)(*3*) in the final rule. This rule corrects this oversight. In addition, a note is added to paragraph (e)(7)(iii) to clarify that requests to switch from one standard to the other are made subsequent to, and are not part of, the initial Notification of Compliance Status.

(h) The requirements of 40 CFR 63.10032(a) are amended to include references to the recordkeeping required under new appendices C (for PM

CEMS), D (for PM CPMS), and E (for quarterly compliance reports and reference method test data). Also, in view of the move away from semiannual compliance reporting to quarterly reporting, the term ''semiannual compliance report'' is replaced with references to both semiannual and quarterly compliance reports in paragraph (a)(1).

(i) The words ''or out of control period'' are removed from the definition of ''monitoring system malfunction or out of control period'' in 40 CFR 63.10042 because that definition does not describe an out of control period. A separate definition of ''out-of-control period'' is added, and that definition is similar with the definition provided in the Acid Rain Program definitions at 40 CFR 72.2.

(j) Table 8 to subpart UUUUU of 40 CFR part 63 is revised to be consistent with the amendments to 40 CFR 63.10031 and the proposed addition of appendices C, D, and E.

(k) Finally, the recordkeeping and reporting requirements in Table 9 to 40 CFR part 63, subpart UUUUU are revised as follows. First, the requirement to provide the information in 40 CFR 63.10030(e)(1) through (8) is clarified, *i.e.,* it only applies to *initial* Notifications of Compliance Status; subsequent notifications are not required. Second, in keeping with the earlier discussion provided in section IV.A of this preamble, a statement clarifying that the excess emissions recordkeeping and reporting requirements of 40 CFR 63.10(c)(7) and (8) and 63.10(e)(3)(v) and (vi) apply through December 31, 2023, when the semiannual compliance reports are phased out, is added. On and after January 1, 2024, all relevant information is provided in quarterly, as opposed to semiannual, reports.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2137.10. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

This rule continues to require collection, recording, and submission of data pertinent to demonstrating compliance with rule requirements. This action consolidates separate reporting systems into one reporting system by 2024; maintains the information already required to be collected, recorded, and submitted; and changes the submission frequency from semiannual to quarterly while consolidating the number and type of reports to be submitted.

Respondents/affected entities: The respondents are owners or operators of fossil fuel-fired EGUs. The United States Standard Industrial Classification code for respondents affected by the rule is 4911 (Electric Services). The corresponding NAICS code is 2211100 (Electric Power Generation, Transmission, and Distribution).

Respondent's obligation to respond: Mandatory per 42 U.S.C. 7414 *et seq.*

Estimated number of respondents: 1,414.

Frequency of response: Quarterly for compliance reports.

Total estimated burden: 273,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Savings of $15,079,000 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. For purposes of assessing the impacts of this rule on small entities, the EPA considered small entities to be defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. As required by the RFA, the EPA proposed using this alternative definition in the **Federal Register** of May 3, 2011, 76 FR 25083, sought public comment, consulted with the Small Business Administration and finalized the alternative definition in the **Federal Register** of February 16, 2012, 77 FR 9433. As stated in that document, the alternative definition would apply to this regulation. This action reduces annual burden on small and large entities. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As described earlier, this action reduces annual burden on governments already subject to MATS; as a result, we have determined that this action will not result in any ''significant'' adverse economic impact for small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. As described earlier, this action has no substantial direct effect on Indian tribes already subject to MATS, since this action reduces their annual burden. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action revises the way in which information is reported to the Agency, increasing submission frequency and making adaptions so that just one reporting system can be used, but reducing overall burden; this regulatory action does not have any impact on human health or the environment.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

§ 63.10000 [Amended]

■ 2. In § 63.10000, paragraph (d)(5)(vi) is amended by adding the words "where appropriate," immediately after the words "CMS that is out of control consistent with section 63.8(c)(7)(i)."

■ 3. Section 63.10005 is amended by:

■ a. Revising the first sentence in paragraph (a)(2) introductory text;

■ b. Revising paragraph (b) introductory text; and

■ c. Revising paragraph (h)(3)(iii).

The revisions read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

(a) * * *

(2) To demonstrate initial compliance using either a CMS that measures HAP concentrations directly (*i.e.,* an Hg, HCl, or HF CEMS, or a sorbent trap monitoring system) or an SO_2 or PM CEMS, the initial performance test shall consist of 30- or, if applicable for Hg, 90-boiler operating days. * * *

* * * * *

(b) *Performance testing requirements.* If you choose to use performance testing to demonstrate initial compliance with the applicable emissions limits in Tables 1 and 2 to this subpart for your EGUs, you must conduct the tests according to 40 CFR 63.10007 and Table 5 to this subpart. Notwithstanding these requirements, when Table 5 specifies the use of isokinetic EPA test Method 5, 5D, 26A, or 29 for a stack test, if concurrent measurement of the stack gas flow rate or moisture content is needed to convert the pollutant concentrations to units of the standard, separate determination of these parameters using EPA test Method 2 or EPA test Method 4 is not necessary. Instead, the stack gas flow rate and moisture content can be determined from data that are collected during the EPA test Method 5, 5D, 6, 26A, or 29 test (*e.g.,* pitot tube (delta P) readings, moisture collected in the impingers, etc.). For the purposes of the initial compliance demonstration, you may use test data and results from a performance test conducted prior to the date on which compliance is required as specified in 40 CFR 63.9984, provided that the following conditions are fully met:

* * * * *

(h) * * *

(3) * * *

(iii) Calculate the average Hg concentration, in $\mu g/m^3$ (dry basis), for each of LEE test runs comprising the 30- (or 90-) boiler operating day performance test, as the arithmetic average of all Method 30B sorbent trap results from the LEE test period. Also calculate, as applicable, the average values of CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, and gross output for the LEE test period. Then:

* * * * *

■ 4. Section 63.10009 is amended by:

■ a. Revising in paragraph (a)(2) the second, third, and last sentences;

■ b. In paragraph (b)(2):

■ i. In the introductory text, removing the words "for pollutants other than Hg";

■ ii. In the definition for "Her_i" adding the words "or sorbent trap monitoring system" after the words "unit i's CEMS"; and

■ c. In paragraph (b)(3) revising "Equation 3a" and "Equation 3b."

The revisions read as follows:

§ 63.10009 May I use emissions averaging to comply with this subpart?

(a) * * *

(2) * * * Note that except for the alternate Hg emissions limit from EGUs in the "unit designed for coal ≥ 8,300 Btu/lb" subcategory, the averaging time for emissions averaging for pollutants is 30-group boiler operating days (rolling

daily) using data from CEMS and sorbent trap monitoring (for Hg), or a combination of data from CEMS and emissions testing (for other pollutants). The averaging time for emissions averaging for the alternate Hg limit (equal to or less than 1.0 lb/TBtu or 1.1E–2 lb/GWh) from EGUs in the "unit designed for coal ≥ 8,300 Btu/lb" subcategory is 90-group boiler operating days (rolling daily) using data from CEMS, sorbent trap monitoring, or a combination of data from CEMS and sorbent trap monitoring.

* * * You must calculate the weighted average emissions rate for the group in accordance with the procedures in this paragraph using the data from all units in the group including any that operate fewer than 30 (or 90) of the preceding 30- (or 90-) group boiler operating days.

* * * * *

(b) * * *

(3) * * *

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \ x \ Rm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Rm_i\right)\right]_p} \qquad \text{(Eq. 3a)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

Rm_i = Hourly heat input or gross output from unit i for the preceding 90-group boiler operating days,

p = Number of EGUs in the emissions averaging group,

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \ x \ Sm_i \ x \ Cfm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Sm_i \ x \ Cfm_i\right)\right]_p} \qquad \text{(Eq. 3b)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days,

Sm_i = Steam generation in units of pounds from unit i that uses Hg CEMS or Hg sorbent trap monitoring for the preceding 90-group boiler operating days,

Cfm_i = Conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses Hg CEMS or sorbent trap monitoring from the preceding 90-group boiler operating days,

p = Number of EGUs in the emissions averaging group,

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

* * * * *

■ 5. Section 63.10010 is amended by revising paragraphs (h)(5), (6), (7), (i), and (j)(4) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(h) * * *

(5) You must collect data using the PM CPMS at all times the process unit is operating and at the intervals specified in paragraph (h)(1)(ii) of this section, except for required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in your site-specific monitoring plan.

(6) You must use all the data collected during all boiler operating hours in assessing the compliance with your operating limit except:

(i) Any data recorded during periods of monitoring system malfunctions or repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in your site-specific monitoring plan), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of output data from the PM CPMS; and

(iv) Any data recorded during periods of startup or shutdown.

(7) You must record and report the results of PM CPMS system performance audits, in accordance with 40 CFR 63.10031(k). You must also record and make available upon request the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with your site-specific monitoring plan.

(i) If you choose to comply with the PM filterable emissions limit in lieu of metal HAP limits, you may choose to install, certify, operate, and maintain a PM CEMS and record and report the output of the PM CEMS as specified in paragraphs (i)(1) through (8) of this section. Compliance with the applicable PM emissions limit in Table 1 or 2 to this subpart is determined on a 30-boiler operating day rolling average basis.

(1) You must install and certify your PM CEMS according to section 4 of appendix C to this subpart.

(2) You must operate, maintain, and quality-assure the data from your PM

CEMS according to section 5 of appendix C to this subpart.

(3) You must reduce the data from your PM CEMS to hourly averages in accordance with section 6.1 of appendix C to this subpart.

(4) You must collect data using the PM CEMS at all times the process unit is operating and at the intervals specified in paragraph (a) of this section, except for required monitoring system quality assurance or quality control activities and any scheduled maintenance as defined in your site-specific monitoring plan.

(5) You must use all the data collected during all boiler operating hours in assessing the compliance with your operating limit except:

(i) Any data recorded during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in appendix C to this subpart), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance, quality control, or maintenance activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(iv) Any data recorded during periods of startup or shutdown.

(6) You must keep records and report data from your PM CEMS in accordance with section 7 of appendix C to this subpart.

(7) You must record and make available upon request the dates and duration of periods when the PM CEMS is out-of-control to completion of the corrective actions necessary to return the PM CEMS to operation consistent with your site-specific monitoring plan.

(8) You must calculate each 30-boiler operating day rolling average PM emission rate in units of the applicable emissions limit in Table 1 or 2 to this subpart, in accordance with section 6.2.4 of appendix C to this subpart.

(j) * * *

(4) You must collect data using the HAP metals CEMS at all times the process unit is operating and at the intervals specified in paragraph (a) of this section, except for required monitoring system quality assurance or quality control activities, and any scheduled maintenance as defined in your site-specific monitoring plan.

(i) You must use all the data collected during all boiler operating hours in assessing the compliance with your emission limit except:

(A) Any data collected during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(B) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any out of control periods as deviations in your compliance reports under 40 CFR 63.10031(c) or (g) (as applicable);

(C) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(D) Any data recorded during periods of startup or shutdown.

(ii) You must record and report the results of HAP metals CEMS system performance audits, in accordance with 40 CFR 63.10031(k). You must also record and make available upon request the dates and duration of periods when the HAP metals CEMS is out of control to completion of the corrective actions necessary to return the HAP metals CEMS to operation consistent with your site-specific performance evaluation and quality control program plan.

* * * * *

■ 6. Section 63.10011 is amended by revising paragraphs (e) and (g)(3) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emissions limits and work practice standards?

* * * * *

(e) You must submit a Notification of Compliance Status in accordance with 40 CFR 63.10031(f)(4) or (h), as applicable, containing the results of the initial compliance demonstration, as specified in 40 CFR 63.10030(e).

* * * * *

(g) * * *

(3) You must report the emissions data recorded during startup and shutdown. If you are relying on paragraph (2) of the definition of startup in 40 CFR 63.10042, then for startup and shutdown incidents that occur on or prior to December 31, 2023, you must also report the applicable supplementary information in 40 CFR 63.10031(c)(5) in the semiannual compliance report. For startup and shutdown incidents that occur on or after January 1, 2024, you must provide the applicable information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) quarterly, in PDF files, in accordance with 40 CFR 63.10031(i).

* * * * *

■ 7. Section 63.10020 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 63.10020 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section and the site-specific monitoring plan required by § 63.10000(d).

(b) You must operate the monitoring system and collect data at all required intervals at all times that the affected EGU is operating, except for required monitoring system quality assurance or quality control activities, including, as applicable, calibration checks and required zero and span adjustments, and any scheduled maintenance as defined in your site-specific monitoring plan. You are required to affect monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

* * * * *

(d) Periods of monitoring system malfunctions or monitoring system out-of-control periods, repairs associated with monitoring system malfunctions or monitoring system out-of-control periods, and required monitoring system quality assurance or quality control activities excluding zero and span checks must be reported as time the monitor was inoperative (downtime) under 63.10(c). Failure to collect required quality-assured data during monitoring system malfunctions, monitoring system out-of-control periods, or repairs associated with monitoring system malfunctions or monitoring system out-of-control periods is a deviation from the monitoring requirements.

* * * * *

■ 8. Section 63.10021 is amended by:

■ a. Revising paragraphs (e)(9) and (f);

■ b. Removing and reserving paragraph (h)(3); and

■ c. Revising paragraph (i).

The revisions read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(e) * * *

(9) Prior to January 1, 2024, report the tune-up date electronically, in a PDF file, in your semiannual compliance report, as specified in 40 CFR 63.10031(f)(4) and (6) and, if requested by the Administrator, in hard copy, as specified in 40 CFR 63.10031(f)(5). On and after January 1, 2024, report the tune-up date electronically in your quarterly compliance report, in accordance with 40 CFR 63.10031(g) and section 10.2 of appendix E to this subpart. The tune-up report date is the date when tune-up requirements in paragraphs (e)(6) and (7) of this section are completed.

* * * * *

(f) You must submit the applicable reports and notifications required under 40 CFR 63.10031(a) through (k) to the Administrator electronically, using EPA's Emissions Collection and Monitoring Plan System (ECMPS) Client Tool. If the final date of any time period (or any deadline) for any of these submissions falls on a weekend or a Federal holiday, the time period shall be extended to the next business day. Moreover, if the EPA Host System supporting the ECMPS Client Tool is offline and unavailable for submission of reports for any part of a day when a report would otherwise be due, the deadline for reporting is automatically extended until the first business day on which the system becomes available following the outage. Use of the ECMPS Client Tool to submit a report or notification required under this subpart satisfies any requirement under subpart A of this part to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional office or state agency whose delegation request has been approved.

* * * * *

(i) If you are relying on paragraph 2 of the definition of startup in 40 CFR 63.10042, you must provide reports concerning activities and periods of startup and shutdown that occur on or prior to January 1, 2024, in accordance with 40 CFR 63.10031(c)(5), in your semiannual compliance report. For startup and shutdown incidents that occur on and after January 1, 2024, you must provide the applicable information referenced in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) quarterly, in PDF files, in accordance with 40 CFR 63.10031(i).

■ 9. Section 63.10030 is amended by:

■ a. In paragraph (e) introductory text revising the last sentence;

■ b. Revising paragraph (e)(7) introductory text;

■ c. Removing and reserving paragraph (e)(7)(i);

■ d. Revising paragraph (e)(7)(iii) introductory text;

■ e. Revising paragraph (e)(7)(iii)(A)(*3*);

■ f. Adding in paragraph (e)(7)(iii)(B) the word "must" after the word "You"; and

■ g. Adding in paragraph (e)(7)(iii)(C) the word "must" after the word "you".

The revisions and additions read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(e) * * * The Notification of Compliance Status report must contain all of the information specified in paragraphs (e)(1) through (8) of this section, that applies to your initial compliance strategy.

* * * * *

(7) Except for requests to switch from one emission limit to another, as provided in paragraph (e)(7)(iii) of this section, your initial notification of compliance status shall also include the following information:

* * * * *

(iii) For each of your existing EGUs, identification of each emissions limit specified in Table 2 to this subpart with which you plan to comply initially. (*Note:* If, at some future date, you wish to switch from the limit specified in your initial notification of compliance status, you must follow the procedures and meet the conditions of paragraphs (e)(7)(iii)(A) through (C) of this section).

(A) * * *

(*3*) Your request includes performance stack test results or valid CMS data, obtained within 45 days prior to the date of your submission, demonstrating that each EGU or EGU emissions averaging group is in compliance with both the mass per heat input limit and the mass per gross output limit;

* * * * *

■ 10. Section 63.10031 is amended by:

■ a. Revising paragraphs (a), (b) introductory text, (b)(1), (2), (4), (5);

■ b. Adding paragraph (b)(6);

■ c. Revising paragraph (c) introductory text;

■ d. Removing and reserving paragraphs (c)(5)(iii), (c)(5)(iv), and (c)(5)(v);

■ e. Adding paragraph (c)(10);

■ f. Revising paragraphs (d), (e), (f) introductory text, (f)(1), and (2);

■ g. Removing and reserving paragraph (f)(3);

■ h. Revising paragraphs (f)(4), (f)(6) introductory text, (f)(6)(vii), (f)(6)(xi), and (g); and

■ i. Adding paragraphs (h), (i), (j) and (k), to read as follows:

§ 63.10031 What reports must I submit and when?

(a) You must submit each report in this section that applies to you.

(1) If you are required to (or elect to) monitor Hg emissions continuously, you must meet the electronic reporting requirements of appendix A to this subpart.

(2) If you elect to monitor HCl and/or HF emissions continuously, you must meet the electronic reporting requirements of appendix B to this subpart. Notwithstanding this requirement, if you opt to certify your HCl monitor according to Performance Specification 18 in appendix B to part 60 of this chapter and to use Procedure 6 in appendix F to part 60 of this chapter for on-going QA of the monitor, then, on and prior to December 31, 2023, report only hourly HCl emissions data and the results of daily calibration drift tests and relative accuracy test audits (RATAs) performed on or prior to that date; keep records of all of the other required certification and QA tests and report them, starting in 2024.

(3) If you elect to monitor filterable PM emissions continuously, you must meet the electronic reporting requirements of appendix C to this subpart. Electronic reporting of hourly PM emissions data shall begin with the later of the first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial PM CEMS correlation test.

(4) If you elect to demonstrate continuous compliance using a PM CPMS, you must meet the electronic reporting requirements of appendix D to this subpart. Electronic reporting of the hourly PM CPMS output shall begin with the later of the first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS.

(5) If you elect to monitor SO_2 emission rate continuously as a surrogate for HCl, you must use the ECMPS Client Tool to submit the following information to EPA (except where it is already required to be reported or has been previously provided under the Acid Rain Program or another emissions reduction program that requires the use of part 75 of this chapter):

(i) Monitoring plan information for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with sections 75.62 and 75.64(a)(4) of this chapter;

(ii) Certification, recertification, quality-assurance, and diagnostic test results for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with section 75.64(a)(5); and

(iii) Quarterly electronic emissions reports. You must submit an electronic quarterly report within 30 days after the end of each calendar quarter, starting with a report for the calendar quarter in which the initial 30 boiler operating day performance test begins. Each report must include the following information:

(A) The applicable operating data specified in section 75.57(b) of this chapter;

(B) An hourly data stream for the unadjusted SO_2 concentration (in ppm, rounded to one decimal place), and separate unadjusted hourly data streams for the other parameters needed to convert the SO_2 concentrations to units of the standard. (*Note:* If a default moisture value is used in the emission rate calculations, an hourly data stream is not required for moisture; rather, the default value must be reported in the electronic monitoring plan.);

(C) An hourly SO_2 emission rate data stream, in units of the standard (*i.e.,* lb/MMBtu or lb/MWh, as applicable), calculated according to 40 CFR 63.10007(e) and (f)(1), rounded to the same precision as the emission standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

(D) The results of all required daily quality-assurance tests of the SO_2 monitor and the additional monitors used to convert SO_2 concentration to units of the standard, as specified in appendix B to part 75 of this chapter; and

(E) A compliance certification, which includes a statement, based on reasonable inquiry of those persons with primary responsibility for ensuring that all SO_2 emissions from the affected EGUs under this subpart have been correctly and fully monitored, by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete. You must submit such a compliance certification statement in support of each quarterly report.

(b) You must submit semiannual compliance reports according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)) and ending on June 30 or December 31, whichever date is the first date that occurs at least 180 days after the compliance date that is specified for your source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)).

(2) The first compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in 40 CFR 63.9984 (or, if applicable, the extended compliance date approved under 40 CFR 63.6(i)(4)).

* * * * *

(4) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to part 70 or part 71 of this chapter, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), through the reporting period that ends December 31, 2023, you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(6) The final semiannual compliance report shall cover the reporting period from July 1, 2023, through December 31, 2023. Quarterly compliance reports shall be submitted thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

(c) The semiannual compliance report must contain the information required in paragraphs (c)(1) through (10) of this section.

* * * * *

(10) If you had any process or control equipment malfunction(s) during the reporting period, you must include the number, duration, and a brief description for each type of malfunction which occurred during the semiannual reporting period which caused or may have caused any applicable emission limitation to be exceeded.

(d) Excess emissions and deviation reporting. For EGUs whose owners or operators rely on a CMS to comply with an emissions or operating limit, the semiannual compliance reports described in paragraph (c) of this section must include the excess emissions and monitor downtime summary report described in 40 CFR 63.10(e)(3)(vi). However, starting with the first calendar quarter of 2024, reporting of the information under 40 CFR 63.10(e)(3)(vi) (and under paragraph (e)(3)(v), if the applicable excess emissions and/or monitor downtime threshold is exceeded) is discontinued for all CMS, and you must, instead, include in the quarterly compliance reports described in paragraph (g) of this section the applicable data elements in section 13 of appendix E to this subpart for any "deviation" (as defined in 40 CFR 63.10042 and elsewhere in this subpart) that occurred during the calendar quarter. If there were no deviations, you must include a statement to that effect in the quarterly compliance report.

(e) Each affected source that has obtained a title V operating permit pursuant to part 70 or part 71 of this chapter must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to paragraphs (c) and (d) of this section, or two quarterly compliance reports covering the appropriate calendar half pursuant to paragraph (g) of this section, along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report(s) includes all required information concerning deviations from any emission limit, operating limit, or work practice requirement in this subpart, submission of the compliance report(s) satisfies any obligation to report the same deviations in the semiannual monitoring report. Submission of the compliance report(s) does not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each performance stack test completed prior to January 1, 2024, (including 30- (or 90-) boiler operating

day Hg LEE demonstration tests and PM tests to establish operating limits for PM CPMS), you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the testing is completed. For each test completed on or after January 1, 2024, in accordance with 40 CFR 63.10031(g), submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart along with the quarterly compliance report for the calendar quarter in which the test was completed.

(1) For each RATA of an Hg, HCl, HF, or SO_2 monitoring system completed prior to January 1, 2024, and for each PM CEMS correlation test, each relative response audit (RRA) and each response correlation audit (RCA) of a PM CEMS completed prior to that date, you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the test is completed. For each SO_2 or Hg RATA completed on or after January 1, 2024, you must submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart prior to or concurrent with the relevant quarterly emissions report. For HCl or HF RATAs, and for correlation tests, RRAs, and RCAs of PM CEMS that are completed on or after January 1, 2024, submit the appendix E reference method information together with the summarized electronic test results, in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable.

(2) If, for a particular EGU or a group of EGUs serving a common stack, you have elected to demonstrate compliance using a PM CEMS, an approved HAP metals CEMS, or a PM CPMS, you must submit quarterly PDF reports in accordance with paragraph (f)(6) of this section, which include all of the 30-boiler operating day rolling average emission rates derived from the CEMS data or the 30-boiler operating day rolling average responses derived from the PM CPMS data (as applicable). The quarterly reports are due within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st. Submission of these quarterly reports in PDF files shall end with the report that covers the fourth calendar quarter of 2023. Beginning with the first calendar quarter of 2024, the compliance averages shall no longer be reported separately, but shall be incorporated into the quarterly compliance reports described in paragraph (g) of this section. In addition to the compliance averages for PM CEMS, PM CPMS, and/or HAP metals CEMS, the quarterly compliance reports described in paragraph (g) of this section must also include the 30- (or, if applicable 90-) boiler operating day rolling average emission rates for Hg, HCl, HF, and/or SO_2, if you have elected to (or are required to) continuously monitor these pollutants. Further, if your EGU or common stack is in an averaging plan, your quarterly compliance reports must identify all of the EGUs or common stacks in the plan and must include all of the 30- (or 90-) group boiler operating day rolling weighted average emission rates (WAERs) for the averaging group.

(3) [Reserved]

(4) You must submit semiannual compliance reports as required under paragraphs (b) through (d) of this section, ending with a report covering the semiannual period from July 1 through December 31, 2023, and Notifications of Compliance Status as required under section 63.10030(e), as PDF files. Quarterly compliance reports shall be submitted in XML format thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

* * * * *

(6) All reports and notifications described in paragraphs (f) introductory text, (f)(1), (2), and (4) of this section shall be submitted to the EPA in the specified format and at the specified frequency, using the ECMPS Client Tool. Each PDF version of a stack test report, CEMS RATA report, PM CEMS correlation test report, RRA report, and RCA report must include sufficient information to assess compliance and to demonstrate that the reference method testing was done properly. Note that EPA will continue to accept, as necessary, PDF reports that are being phased out at the end of 2023, if the submission deadlines for those reports extend beyond December 31, 2023. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

* * * * *

(vii) An indication of the type of PDF report or notification being submitted;

* * * * *

(xi) The date the performance test was completed (if applicable) and the test number (if applicable); and

* * * * *

(g) Starting with a report for the first calendar quarter of 2024, you must use the ECMPS Client Tool to submit quarterly electronic compliance reports. Each quarterly compliance report shall include the applicable data elements in sections 2 through 13 of appendix E to this subpart. For each stack test summarized in the compliance report, you must also submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart. The compliance reports and associated appendix E information must be submitted no later than 60 days after the end of each calendar quarter.

(h) On and after January 1, 2024, initial Notifications of Compliance Status (if any) shall be submitted in accordance with 40 CFR 63.9(h)(2)(ii), as PDF files, using the ECMPS Client Tool. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each Notification.

(i) If you have elected to use paragraph (2) of the definition of "startup" in 40 CFR 63.10042, then, for startup and shutdown incidents that occur on or prior to December 31, 2023, you must include the information in 40 CFR 63.10031(c)(5) in the semiannual compliance report, in a PDF file. If you have elected to use paragraph (2) of the definition of "startup" in 40 CFR 63.10042, then, for startup and shutdown event(s) that occur on or after January 1, 2024, you must use the ECMPS Client Tool to submit the information in 40 CFR 63.10031(c)(5) and 40 CFR 63.10020(e) along with each quarterly compliance report, in a PDF file, starting with a report for the first calendar quarter of 2024. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each startup and shutdown report.

(j) If you elect to use a certified PM CEMS to monitor PM emissions continuously to demonstrate compliance with this subpart and have begun recording valid data from the PM CEMS prior to November 9, 2020, you must use the ECMPS Client Tool to submit a detailed report of your PS 11 correlation test (see appendix B to part 60 of this chapter) in a PDF file no later than 60 days after that date. For a correlation test completed on or after November 9, 2020, but prior to January 1, 2024, you must submit the PDF report no later than 60 days after the date on which the test is completed. For a correlation test completed on or after January 1, 2024, you must submit the PDF report according to section 7.2.4 of appendix C to this subpart. The applicable data elements in paragraph (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

(k) If you elect to demonstrate compliance using a PM CPMS or an

approved HAP metals CEMS, you must submit quarterly reports of your QA/QC activities (*e.g.,* calibration checks, performance audits), in a PDF file, beginning with a report for the first quarter of 2024, if the PM CPMS or HAP metals CEMS is used for the compliance demonstration in that quarter. Otherwise, submit a report for the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance. These reports are due no later than 60 days after the end of each calendar quarter. The applicable data elements in paragraph (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

■ 11. Section 63.10032 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.10032 What records must I keep?

(a) You must keep records according to paragraphs (a)(1) and (2) of this section. If you are required to (or elect to) continuously monitor Hg and/or HCl and/or HF and/or PM emissions, or if you elect to use a PM CPMS, you must keep the records required under appendix A and/or appendix B and/or appendix C and/or appendix D to this subpart. If you elect to conduct periodic (*e.g.,* quarterly or annual) performance stack tests, then, for each test completed on or after January 1, 2024, you must keep records of the applicable data elements under 40 CFR 63.7(g). You must also keep records of all data elements and other information in appendix E to this subpart that apply to your compliance strategy.

(1) In accordance with 40 CFR 63.10(b)(2)(xiv), a copy of each notification or report that you submit to comply with this subpart. You must also keep records of all supporting documentation for the initial Notifications of Compliance Status, semiannual compliance reports, or quarterly compliance reports that you submit.

* * * * *

■ 12. Section 63.10042 is amended by:

■ a. In the definition "*Diluent cap*" adding the word "PM," after the word "HF,";

■ b. In the definition "*Monitoring system malfunction or out of control period*" removing the words "*or out of control period*"; and

■ c. Adding the definition "*Out of control period*" in alphabetical order.

The addition reads as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Out-of-control period, as it pertains to continuous monitoring systems, means any period:

(1) Beginning with the hour corresponding to the completion of a daily calibration or quality assurance audit that indicates that the instrument fails to meet the applicable acceptance criteria; and

(2) Ending with the hour corresponding to the completion of an additional calibration or quality assurance audit following corrective action showing that the instrument meets the applicable acceptance criteria.

* * * * *

■ 13. Table 3 to subpart UUUUU is amended by revising the entries "3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup" and "4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown" to read as follows:

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS

* * * * * * *

If your EGU is . . .	You must meet the following . . .
* *	* * * * *
3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup.	a. You have the option of complying using either of the following work practice standards: (1) If you choose to comply using paragraph (1) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. Startup means either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on site use). For startup of a unit, you must use clean fuels as defined in § 63.10042 for ignition. Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies except dry scrubber and SCR. You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation. You must comply with all applicable emissions limits at all times except for periods that meet the applicable definitions of startup and shutdown in this subpart. You must keep records during startup periods. You must provide reports concerning activities and startup periods, as specified in § 63.10011(g) and § 63.10021(h) and (i). If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning startup periods as follows: For startup periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i). (2) If you choose to comply using paragraph (2) of the definition of "startup" in § 63.10042, you must operate all CMS during startup. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of startup. For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent possible, taking into account considerations such as boiler or control device integrity, throughout the startup period. You must have sufficient clean fuel capacity to engage and operate your PM control device within one hour of adding coal, residual oil, or solid oil-derived fuel to the unit. You must meet the startup period work practice requirements as identified in § 63.10020(e). Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s). You must comply with the applicable emission limits beginning with the hour after startup ends. You must engage and operate your PM control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel.

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS—Continued

* * * * * * *

If your EGU is . . .	You must meet the following . . .
	You must start all other applicable control devices as expeditiously as possible, considering safety and manufacturer/supplier recommendations, but, in any case, when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this subpart that require operation of the control devices. b. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. c. If you choose to use just one set of sorbent traps to demonstrate compliance with the applicable Hg emission limit, you must comply with the limit at all times; otherwise, you must comply with the applicable emission limit at all times except for startup and shutdown periods. d. You must collect monitoring data during startup periods, as specified in § 63.10020(a) and (e). You must keep records during startup periods, as provided in §§ 63.10021(h) and 63.10032. You must provide reports concerning activities and startup periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning startup periods as follows: For startup periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i).
4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of shutdown for those pollutants for which a CMS is used. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices and continue to operate those control devices after the cessation of coal, residual oil, or solid oil-derived fuel being fed into the EGU and for as long as possible thereafter considering operational and safety concerns. In any case, you must operate your controls when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this subpart and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the clean fuels defined in § 63.10042 and must be used to the maximum extent possible, taking into account considerations such as not compromising boiler or control device integrity. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup periods and shutdown periods at which time you must meet this work practice. You must collect monitoring data during shutdown periods, as specified in § 63.10020(a). You must keep records during shutdown periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown. You must provide reports concerning activities and shutdown periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of startup in 40 CFR 63.10042, you must report the applicable information in 40 CFR 63.10031(c)(5) concerning shutdown periods as follows: For shutdown periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for shutdown periods that occur on or after January 1, 2024, quarterly, in PDF files, according to 40 CFR 63.10031(i).

* * * * *

■ 14. Table 8 to subpart UUUUU is revised to read as follows:

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS

[In accordance with 40 CFR 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
1. The electronic reports required under 40 CFR 63.10031 (a)(1), if you continuously monitor Hg emissions.
2. The electronic reports required under 40 CFR 63.10031 (a)(2), if you continuously monitor HCl and/or HF emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
3. The electronic reports required under 40 CFR 63.10031(a)(3), if you continuously monitor PM emissions. Reporting of hourly PM emissions data using ECMPS shall begin with the first operating hour after: January 1, 2024, or the hour of completion of the initial PM CEMS correlation test, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
4. The electronic reports required under 40 CFR 63.10031(a)(4), if you elect to use a PM CPMS. Reporting of hourly PM CPMS response data using ECMPS shall begin with the first operating hour after January 1, 2024, or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
5. The electronic reports required under 40 CFR 63.10031(a)(5), if you continuously monitor SO_2 emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS—Continued

[In accordance with 40 CFR 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
6. PDF reports for all performance stack tests completed prior to January 1, 2024 (including 30- or 90-boiler operating day Hg LEE test reports and PM test reports to set operating limits for PM CPMS), according to the introductory text of 40 CFR 63.10031(f) and 40 CFR 63.10031(f)(6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed. For a PM test that is used to set an operating limit for a PM CPMS, the report must also include the information in 40 CFR 63.10023(b)(2)(vi). For each performance stack test completed on or after January 1, 2024, submit the test results in the relevant quarterly compliance report under 40 CFR 63.10031(g), together with the applicable reference method information in sections 17 through 31 of appendix E to this subpart.
7. PDF reports for all RATAs of Hg, HCl, HF, and/or SO_2 monitoring systems completed prior to January 1, 2024, and for correlation tests, RRAs and/or RCAs of PM CEMS completed prior to January 1, 2024, according to 40 CFR 63.10031(f)(1) and (6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed. For each SO_2 or Hg system RATA completed on or after January 1, 2024, submit the electronic test summary required by appendix A to this subpart or part 75 of this chapter (as applicable) together with the applicable reference method information in sections 17 through 30 of appendix E to this subpart, either prior to or concurrent with the relevant quarterly emissions report. For each HCl or HF system RATA, and for each correlation test, RRA, and RCA of a PM CEMS completed on or after January 1, 2024, submit the electronic test summary in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable, together with the applicable reference method information in sections 17 through 30 of appendix E to this subpart.
8. Quarterly reports, in PDF files, that include all 30-boiler operating day rolling averages in the reporting period derived from your PM CEMS, approved HAP metals CEMS, and/or PM CPMS, according to 40 CFR 63.10031(f)(2) and (6). These reports are due no later than 60 days after the end of each calendar quarter. The final quarterly rolling averages report in PDF files shall cover the fourth calendar quarter of 2023. Starting with the first quarter of 2024, you must report all 30-boiler operating day rolling averages for PM CEMS, approved HAP metals CEMS, PM CPMS, Hg CEMS, Hg sorbent trap systems, HCl CEMS, HF CEMS, and/or SO_2 CEMS (or 90-boiler operating day rolling averages for Hg systems), in XML format, in the quarterly compliance reports required under 40 CFR 63.10031(g). If your EGU or common stack is in an averaging plan, each quarterly compliance report must identify the EGUs in the plan and include all of the 30- or 90- group boiler operating day WAERs for the averaging group. The quarterly compliance reports must be submitted no later than 60 days after the end of each calendar quarter.
9. The semiannual compliance reports described in 40 CFR 63.10031(c) and (d), in PDF files, according to 40 CFR 63.10031(f)(4) and (6). The due dates for these reports are specified in 40 CFR 63.10031(b). The final semiannual compliance report shall cover the period from July 1, 2023, through December 31, 2023.
10. Notifications of compliance status, in PDF files, according to 40 CFR 63.10031(f)(4) and (6) until December 31, 2023, and according to 40 CFR 63.10031(h) thereafter.
11. Quarterly electronic compliance reports, in accordance with 40 CFR 63.10031(g), starting with a report for the first calendar quarter of 2024. The reports must be in XML format and must include the applicable data elements in sections 2 through 13 of appendix E to this subpart. These reports are due no later than 60 days after the end of each calendar quarter.
12. Quarterly reports, in PDF files, that include the applicable information in 40 CFR 63.10031(c)(5)(ii) and 40 CFR 63.10020(e) pertaining to startup and shutdown events, starting with a report for the first calendar quarter of 2024, if you have elected to use paragraph 2 of the definition of startup in 40 CFR 63.10042 (see 40 CFR 63.10031(i)). These PDF reports shall be submitted no later than 60 days after the end of each calendar quarter, along with the quarterly compliance reports required under 40 CFR 63.10031(g).
13. A test report for the PS 11 correlation test of your PM CEMS, in accordance with 40 CFR 63.10031(j). If, prior to November 9, 2020, you have begun using a certified PM CEMS to demonstrate compliance with this subpart, use the ECMPS Client Tool to submit the report, in a PDF file, no later than 60 days after that date. For correlation tests completed on or after November 9, 2020, but prior to January 1, 2024, submit the report, in a PDF file, no later than 60 days after the date on which the test is completed. For correlation tests completed on or after January 1, 2024, submit the test results electronically, according to section 7.2.4 of appendix C to this subpart, together with the applicable reference method data in sections 17 through 31 of appendix E to this subpart.
14. Quarterly reports that include the QA/QC activities for your PM CPMS or approved HAP metals CEMS (as applicable), in PDF files, according to 40 CFR 63.10031(k). The first report shall cover the first calendar quarter of 2024, if the PM CPMS or HAP metals CEMS is in use during that quarter. Otherwise, reporting begins with the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance. These reports are due no later than 60 days after the end of each calendar quarter.

* * * * *

■ 15. Table 9 to subpart UUUUU is amended by:

■ a. Revising the entries "63.9"and "63.10(c)(7) and (8)"; and

■ b. Adding the entry "§ 63.10(e)(3)(v) and (vi)".

The addition and revision read as follows:

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU

[* * * * * * *]

Citation	Subject	Applies to subpart UUUUU
*	* *	* * * *
§ 63.9	Notification Requirements	Yes, except (1) for the 60-day notification prior to conducting a performance test in § 63.9(e); instead use a 30-day notification period per § 63.10030(d), (2) the notification of the CMS performance evaluation in § 63.9(g)(1) is limited to RATAs, and (3) the information required per § 63.9(h)(2)(i); instead provide the applicable information in § 63.10030(e)(1) through (8), for the initial notification of compliance status, only.
*	* *	* * * *
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS — identifying exceedances and excess emissions.	Applies only through December 31, 2023.
§ 63.10(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Applies only through December 31, 2023.
*	* *	* * * *
§ 63.10(e)(3)(v) and (vi)	Excess emissions and CMS performance reports.	Applies only through December 31, 2023.
*	* *	* * * *

■ 16. Appendix A to subpart UUUUU is amended by revising sections 5.1.1, 7.1.1.2.1, 7.1.3.3, 7.1.4.3, 7.1.8.2, and 7.2.3.1 to read as follows:

Appendix A to Subpart UUUUU of Part 63—HG Monitoring Provisions

* * * * *

5. Ongoing Quality Assurance (QA) and Data Validation

* * * * *

5.1.1 *Required QA Tests.* Periodic QA testing of each Hg CEMS is required following initial certification. The required QA tests, the test frequencies, and the performance specifications that must be met are summarized in Table A–2, below. All tests must be performed with the affected unit(s) operating (*i.e.,* combusting fuel), however, the daily calibration may optionally be performed off-line. The RATA must be performed at normal load, but no particular load level is required for the other tests. For each test, follow the same basic procedures in section 4.1.1 of this appendix that were used for initial certification.

* * * * *

7. Recordkeeping and Reporting

* * * * *

7.1.1.2.1 *Electronic.* The electronic monitoring plan records must include the following: unit or stack ID number(s); monitoring location(s); the Hg monitoring methodologies used; emissions controls; Hg monitoring system information, including, but not limited to: Unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate Hg emissions; and Hg monitor span and range information. The electronic monitoring plan shall be evaluated and submitted using the ECMPS Client Tool provided by the Clean Air Markets Division in the Office of Atmospheric Programs of the EPA.

* * * * *

7.1.3.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.1.4.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. Note that when a single quality-assured Hg concentration value is obtained for a particular data collection period, that single concentration value is applied to each operating hour of the data collection period.

* * * * *

7.1.8.2 The hourly Hg emissions rate (lb/TBtu or lb/GWh, as applicable), calculated according to section 6.2.1 or 6.2.2 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), if valid values of Hg concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.2.3.1 For an EGU that begins reporting hourly Hg concentrations with a previously-certified Hg monitoring system, submit the monitoring plan information in section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of Hg emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the CEMS. Also submit the monitoring plan information in section 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

■ 17. Appendix B to subpart UUUUU is amended by:

■ a. Revising the heading and introductory text of section 2.3;

■ b. Revising sections 9.4, 10.1.3.3, 10.1.7.2, 10.1.8.1.1, 10.1.8.1.2, and 10.1.8.1.3;

■ c. Adding sections 10.1.8.1.4 through 10.1.8.1.12;
■ d. Revising sections 11.3.1, 11.4 introductory text, and 11.4.1;
■ e. Adding sections 11.4.1.1 through 11.4.1.9;
■ f. Revising section 11.4.2 introductory text;
■ g. Revising sections 11.4.3.11 and 11.4.3.12;
■ h. Re-designating section 11.4.3.13 as 11.4.3.14;
■ i. Adding new section 11.4.3.13;
■ j. Re-designating section 11.4.4 as 11.4.13;
■ k. Adding sections: 11.4.4 introductory text; 11.4.4.1 through 11.4.4.7; 11.4.5 introductory text; 11.4.5.1; 11.4.5.1.1 through 11.4.5.1.9; 11.4.5.2 introductory text; 11.4.5.2.1 through 11.4.5.2.6; 11.4.6 introductory text; 11.4.6.1 through 11.4.6.8, 11.4.7 introductory text; 11.4.7.1 through 11.4.7.6; 11.4.8 introductory text; 11.4.8.1 through 11.4.8.15; 11.4.9 introductory text; 11.4.9.1 through 11.4.9.5; 11.4.10 introductory text; 11.4.10.1 through 11.4.10.8; 11.4.11 introductory text; 11.4.11.1 through 11.4.11.7; 11.4.12 introductory text; 11.4.12.1 through 11.4.12.9; and 11.4.13; and revising section 11.5.1.

The revisions and additions read as follows:

Appendix B to Subpart UUUUU of Part 63—HC_L and HF Monitoring Provisions

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2. Monitoring of HC_L and/or HF Emissions

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2.3 *Monitoring System Equipment, Supplies, Definitions, and General Operation.*

The following provisions apply:

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9. Data Reduction and Calculations

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9.4 Use Equation A–5 in appendix A of this subpart to calculate the required 30-boiler operating day rolling average HCl or HF emission rates. Report each 30-boiler operating day rolling average to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. The term E_{ho} in Equation A–5 must be in the units of the applicable emissions limit.

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10. Recordkeeping Requirements

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10.1.3.3 The pollutant concentration, for each hour in which a quality-assured value is obtained. For HCl and HF, record the data in parts per million (ppm), with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

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10.1.7.2 The hourly HCl and/or HF emissions rate (lb/MMBtu, or lb/MWh, as applicable), for each hour in which valid values of HCl or HF concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Round off the emission rate to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

10.1.8.1.1 For each required 7-day and daily calibration drift test or daily calibration error test (including daily calibration transfer standard tests) of the HCl or HF CEMS, record the test date(s) and time(s), reference gas value(s), monitor response(s), and calculated calibration drift or calibration error value(s). If you use the dynamic spiking option for the mid-level calibration drift check under PS–18, you must also record the measured concentration of the native HCl in the flue gas before and after the spike and the spiked gas dilution factor. When using an IP–CEMS under PS–18, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.2 For the required gas audits of an FTIR HCl or HF CEMS that is following PS 15, record the date and time of each spiked and unspiked sample, the audit gas reference values and uncertainties. Keep records of all calculations and data analyses required under sections 9.1 and 12.1 of Performance Specification 15, and the results of those calculations and analyses.

10.1.8.1.3 For each required RATA of an HCl or HF CEMS, record the beginning and ending date and time of each test run, the reference method(s) used, and the reference method and HCl or HF CEMS run values. Keep records of stratification tests performed (if any), all of the raw field data, relevant process operating data, and all of the calculations used to determine the relative accuracy.

10.1.8.1.4 For each required beam intensity test of an HCl IP–CEMS under PS–18, record the test date and time, the known attenuation value (%) used for the test, the concentration of the high-level reference gas used, the full-beam and attenuated beam intensity levels, the measured HCl concentrations at full-beam intensity and attenuated intensity and the percent difference between them, and the results of the test. For each required daily beam intensity check of an IP–CEMS under Procedure 6, record the beam intensity measured including the units of measure and the results of the check.

10.1.8.1.5 For each required measurement error (ME) test of an HCl monitor, record the date and time of each gas injection, the reference gas concentration (low, mid, or high) and the monitor response for each of the three injections at each of the three levels. Also record the average monitor response and the ME at each gas level and the related calculations. For ME tests conducted on IP–CEMS, also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.6 For each required level of detection (LOD) test of an HCl monitor performed in a controlled environment, record the test date, the concentrations of the reference gas and interference gases, the results of the seven (or more) consecutive measurements of HCl, the standard deviation, and the LOD value. For each required LOD test performed in the field, record the test date, the three measurements of the native source HCl concentration, the results of the three independent standard addition (SA) measurements known as standard addition response (SAR), the effective spike addition gas concentration (for IP–CEMS, the equivalent concentration of the reference gas), the resulting standard addition detection level (SADL) value and all related calculations. For extractive CEMS performing the SA using dynamic spiking, you must record the spiked gas dilution factor.

10.1.8.1.7 For each required ME/level of detection response time test of an HCl monitor, record the test date, the native HCl concentration of the flue gas, the reference gas value, the stable reference gas readings, the upscale/downscale start and end times, and the results of the upscale and downscale stages of the test.

10.1.8.1.8 For each required temperature or pressure measurement verification or audit of an IP–CEMS, keep records of the test date, the temperatures or pressures (as applicable) measured by the calibrated temperature or pressure reference device and the IP–CEMS, and the results of the test.

10.1.8.1.9 For each required interference test of an HCl monitor, record (or obtain from the analyzer manufacturer records of): The date of the test; the gas volume/rate, temperature, and pressure used to conduct the test; the HCl concentration of the reference gas used; the concentrations of the interference test gases; the baseline HCl and HCl responses for each interferent combination spiked; and the total percent interference as a function of span or HCl concentration.

10.1.8.1.10 For each quarterly relative accuracy audit (RAA) of an HCl monitor, record the beginning and ending date and time of each test run, the reference method

used, the HCl concentrations measured by the reference method and CEMS for each test run, the average concentrations measured by the reference method and the CEMS, and the calculated relative accuracy. Keep records of the raw field data, relevant process operating data, and the calculations used to determine the relative accuracy.

10.1.8.1.11 For each quarterly cylinder gas audit (CGA) of an HCl monitor, record the date and time of each injection, and the reference gas concentration (zero, mid, or high) and the monitor response for each injection. Also record the average monitor response and the calculated ME at each gas level. For IP–CEMS, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.12 For each quarterly dynamic spiking audit (DSA) of an HCl monitor, record the date and time of the zero gas injection and each spike injection, the results of the zero gas injection, the gas concentrations (mid and high) and the dilution factors and the monitor response for each of the six upscale injections as well as the corresponding native HCl concentrations measured before and after each injection. Also record the average dynamic spiking error for each of the upscale gases, the calculated average DSA Accuracy at each upscale gas concentration, and all calculations leading to the DSA Accuracy.

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11. Reporting Requirements

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11.3.1 For an EGU that begins reporting hourly HCl and/or HF concentrations with a previously-certified CEMS, submit the monitoring plan information in section 10.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of HCl and/or HF emissions after having implemented another allowable compliance option under this subpart, submit the information in section 10.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the CEMS. Also submit the monitoring plan information in section 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

11.4 *Certification, Recertification, and Quality-Assurance Test Reporting Requirements.* Except for daily QA tests (*i.e.,* calibrations and flow monitor interference checks), which are included in each electronic quarterly emissions report, use the ECMPS Client Tool to submit the results of all required certification, recertification, quality-assurance, and diagnostic tests of the monitoring systems required under this appendix electronically. Submit the test results either prior to or concurrent with the relevant quarterly electronic emissions report. However, for RATAs of the HCl monitor, if this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the test, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period changes from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data must be invalidated and resubmission of the affected emission report(s) is required.

11.4.1 For each daily calibration drift (or calibration error) assessment (including daily calibration transfer standard tests), and for each 7-day calibration drift test of an HCl or HF monitor, report:

11.4.1.1 Facility ID information;

11.4.1.2 The monitoring component ID;

11.4.1.3 The instrument span and span scale;

11.4.1.4 For each gas injection, the date and time, the calibration gas level (zero, mid or other), the reference gas value (ppm), and the monitor response (ppm);

11.4.1.5 A flag to indicate whether dynamic spiking was used for the upscale value (extractive HCl monitors only);

11.4.1.6 Calibration drift or calibration error (percent of span or reference gas, as applicable);

11.4.1.7 When using the dynamic spiking option, the measured concentration of native HCl before and after each mid-level spike and the spiked gas dilution factor;

11.4.1.8 When using an IP–CEMS, also report the measured concentration of native HCl before and after each upscale measurement, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas; and

11.4.1.9 Reason for test (for the 7-day CD test, only).

11.4.2 For each quarterly gas audit of an HCl or HF CEMS that is following PS 15, report:

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11.4.3.11 Standard deviation, using either Equation 2–4 in section 12.3 of PS 2 in appendix B to part 60 of this chapter or Equation 10 in section 12.6.5 of PS 18;

11.4.3.12 Confidence coefficient, using either Equation 2–5 in section 12.4 of PS 2 in appendix B to part 60 of this chapter or Equation 11 in section 12.6.6 of PS 18;

11.4.3.13 t-value; and

11.4.3.14 *Relative Accuracy.* For FTIR monitoring systems following PS 15, calculate the relative accuracy using Equation 2–6 of PS 2 in appendix B to part 60 of this chapter or, if applicable, according to the alternative procedure for low emitters described in section 3.1.2.2 of this appendix. For HCl CEMS following PS 18, calculate the relative accuracy according to section 12.6 of PS 18. If applicable use a flag to indicate that the alternative relative accuracy specification for low emitters has been applied.

11.4.4 For each 3-level ME test of an HCl monitor, report:

11.4.4.1 Facility ID information;

11.4.4.2 Monitoring component ID;

11.4.4.3 Instrument span and span scale;

11.4.4.4 For each gas injection, the date and time, the calibration gas level (low, mid, or high), the reference gas value in ppm and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;

11.4.4.5 For extractive CEMS, the mean reference value and mean of measured values at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18;

11.4.4.6 ME at each reference gas level; and

11.4.4.7 Reason for test.

11.4.5 Beam intensity tests of an IP CEMS:

11.4.5.1 For the initial beam intensity test described in PS 18 in appendix B to part 60 of this chapter, report:

11.4.5.1.1 Facility ID information;

11.4.5.1.2 Date and time of the test;

11.4.5.1.3 Monitoring system ID;

11.4.5.1.4 Reason for test;

11.4.5.1.5 Attenuation value (%);

11.4.5.1.6 High level gas concentration (ppm);

11.4.5.1.7 Full and attenuated beam intensity levels, including units of measure;

11.4.5.1.8 Measured HCl concentrations at full and attenuated beam intensity (ppm); and

11.4.5.1.9 Percentage difference between the HCl concentrations.

11.4.5.2 For the daily beam intensity check described in Procedure 6 of appendix F to Part 60 of this chapter, report:

11.4.5.2.1 Facility ID information;

11.4.5.2.2 Date and time of the test;

11.4.5.2.3 Monitoring system ID;

11.4.5.2.4 The attenuated beam intensity level (limit) established in the initial test;

11.4.5.2.5 The beam intensity measured during the daily check; and

11.4.5.2.6 Results of the test (pass or fail).

11.4.6 For each temperature or pressure verification or audit of an HCl IP–CEMS, report:

11.4.6.1 Facility ID information;

11.4.6.2 Date and time of the test;

11.4.6.3 Monitoring system ID;

11.4.6.4 Type of verification (temperature or pressure);

11.4.6.5 Stack sensor measured value;

11.4.6.6 Reference device measured value;

11.4.6.7 Results of the test (pass or fail); and

11.4.6.8 Reason for test.

11.4.7 For each interference test of an HCl monitoring system, report:

11.4.7.1 Facility ID information;
11.4.7.2 Date of test;
11.4.7.3 Monitoring system ID;
11.4.7.4 Results of the test (pass or fail);
11.4.7.5 Reason for test; and
11.4.7.6 A flag to indicate whether the test was performed: On this particular monitoring system; on one of multiple systems of the same type; or by the manufacturer on a system with components of the same make and model(s) as this system.

11.4.8 For each LOD test of an HCl monitor, report:
11.4.8.1 Facility ID information;
11.4.8.2 Date of test;
11.4.8.3 Reason for test;
11.4.8.4 Monitoring system ID;
11.4.8.5 A code to indicate whether the test was done in a controlled environment or in the field;
11.4.8.6 HCl reference gas concentration;
11.4.8.7 HCl responses with interference gas (seven repetitions);
11.4.8.8 Standard deviation of HCl responses;
11.4.8.9 Effective spike addition gas concentrations;
11.4.8.10 HCl concentration measured without spike;
11.4.8.11 HCl concentration measured with spike;
11.4.8.12 Dilution factor for spike;
11.4.8.13 The controlled environment LOD value (ppm or ppm-meters);
11.4.8.14 The field determined standard addition detection level (SADL in ppm or ppm-meters); and
11.4.8.15 Result of LDO/SADL test (pass/fail).

11.4.9 For each ME or LOD response time test of an HCl monitor, report:
11.4.9.1 Facility ID information;
11.4.9.2 Date of test;
11.4.9.3 Monitoring component ID;
11.4.9.4 The higher of the upscale or downscale tests, in minutes; and
11.4.9.5 Reason for test.

11.4.10 For each quarterly RAA of an HCl monitor, report:
11.4.10.1 Facility ID information;
11.4.10.2 Monitoring system ID;
11.4.10.3 Begin and end time of each test run;
11.4.10.4 The reference method used;
11.4.10.5 The reference method and CEMS values for each test run, including the units of measure;
11.4.10.6 The mean reference method and CEMS values for the three test runs;
11.4.10.7 The calculated relative accuracy, percent; and
11.4.10.8 Reason for test.

11.4.11 For each quarterly cylinder gas audit of an HCl monitor, report:
11.4.11.1 Facility ID information;
11.4.11.2 Monitoring component ID;
11.4.11.3 Instrument span and span scale;
11.4.11.4 For each gas injection, the date and time, the reference gas level (zero, mid, or high), the reference gas value in ppm, and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;
11.4.11.5 For extractive CEMS, the mean reference gas value and mean monitor response at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level -see Equation 6A in PS 18;
11.4.11.6 ME at each reference gas level; and
11.4.11.7 Reason for test.

11.4.12 For each quarterly DSA of an HCl monitor, report:
11.4.12.1 Facility ID information;
11.4.12.2 Monitoring component ID;
11.4.12.3 Instrument span and span scale;
11.4.12.4 For the zero gas injection, the date and time, and the monitor response (*Note:* The zero gas injection from a calibration drift check performed on the same day as the upscale spikes may be used for this purpose.);
11.4.12.5 Zero spike error;
11.4.12.6 For the upscale gas spiking, the date and time of each spike, the reference gas level (mid- or high-), the reference gas value (ppm), the dilution factor, the native HCl concentrations before and after each spike, and the monitor response for each gas spike;
11.4.12.7 Upscale spike error;
11.4.12.8 DSA at the zero level and at each upscale gas level; and
11.4.12.9 Reason for test.

11.4.13 *Reporting Requirements for Diluent Gas, Flow Rate, and Moisture Monitoring Systems.* For the certification, recertification, diagnostic, and QA tests of stack gas flow rate, moisture, and diluent gas monitoring systems that are certified and quality-assured according to part 75 of this chapter, report the information in section 10.1.8.2 of this appendix.

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11.5.1 The owner or operator of any affected unit shall use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator in an XML format specified by the Administrator, for each affected unit (or group of units monitored at a common stack). If the certified HCl or HF CEMS is used for the initial compliance demonstration, HCl or HF emissions reporting shall begin with the first operating hour of the 30-boiler operating day compliance demonstration period. Otherwise, HCl or HF emissions reporting shall begin with the first operating hour after successfully completing all required certification tests of the CEMS.

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■ 18. Subpart UUUUU of part 63 is amended by adding appendix C to read as follows:

Appendix C to Subpart UUUUU of Part 63—PM Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous measurement of filterable PM emissions from affected EGUs under this subpart. A PM CEMS is used together with other CMS and (as applicable) parametric measurement devices to quantify PM emissions in units of the applicable standard (*i.e.,* lb/MMBtu or lb/MWh).

1.2 *Initial Certification and Recertification Procedures.*

You, as the owner or operator of an affected EGU that uses a PM CEMS to demonstrate compliance with a filterable PM emissions limit in Table 1 or 2 to this subpart must certify and, if applicable, recertify the CEMS according to PS–11 in appendix B to part 60 of this chapter.

1.3 *Quality Assurance and Quality Control Requirements.* You must meet the applicable quality assurance requirements of Procedure 2 in appendix F to part 60 of this chapter.

1.4 *Missing Data Procedures.* You must not substitute data for missing data from the PM CEMS. Any process operating hour for which quality-assured PM concentration data are not obtained is counted as an hour of monitoring system downtime.

1.5 *Adjustments for Flow System Bias.* When the PM emission rate is reported on a gross output basis, you must not adjust the data recorded by a stack gas flow rate monitor for bias, which may otherwise be required under section 75.24 of this chapter.

2. Monitoring of PM Emissions

2.1 *Monitoring System Installation Requirements.* Flue gases from the affected EGUs under this subpart vent to the atmosphere through a variety of exhaust configurations including single stacks, common stack configurations, and multiple stack configurations. For each of these configurations, 40 CFR 63.10010(a) specifies the appropriate location(s) at which to install CMS. These CMS installation provisions apply to the PM CEMS and to the other CMS and parametric monitoring devices that provide data for the PM emissions calculations in section 6 of this appendix.

2.2 *Primary and Backup Monitoring Systems.* In the electronic monitoring plan described in section 7 of this appendix, you must create and designate a primary monitoring system for PM and for each additional parameter (*i.e.,* stack gas flow rate, CO_2 or O_2 concentration, stack gas moisture content, as applicable). The primary system must be used to report hourly PM concentration values when the system is able to provide quality-assured data, *i.e.,* when the system is "in control." However, to increase data availability in the event of a primary monitoring system outage, you may install, operate, maintain, and calibrate a redundant backup monitoring system. A redundant backup system is one that is permanently installed at the unit or stack location and is kept on "hot standby" in case the primary monitoring system is unable to provide quality-assured data. You must represent each redundant backup system as a unique monitoring system in the electronic monitoring plan. You must certify each redundant backup monitoring system according to the applicable provisions in section 4 of this appendix. In addition, each redundant monitoring system must meet the applicable on-going QA requirements in section 5 of this appendix.

3. PM Emissions Measurement Methods

The following definitions, equipment specifications, procedures, and performance criteria are applicable

3.1 *Definitions.* All definitions specified in section 3 of PS–11 in appendix B to part 60 of this chapter and section 3 of Procedure 2 in appendix F to part 60 of this chapter are applicable to the measurement of filterable PM emissions from electric utility steam generating units under this subpart. In addition, the following definitions apply:

3.1.1 *Stack operating hour* means a clock hour during which flue gases flow through a particular stack or duct (either for the entire hour or for part of the hour) while the associated unit(s) are combusting fuel.

3.1.2 *Unit operating hour* means a clock hour during which a unit combusts any fuel, either for part of the hour or for the entire hour.

3.2 *Continuous Monitoring Methods.*

3.2.1 Installation and Measurement Location. You must install the PM CEMS according to 40 CFR 63.10010 and Section 2.4 of PS–11.

3.2.2 Units of Measure. For the purposes of this subpart, you shall report hourly PM concentrations in units of measure that correspond to your PM CEMS correlation curve (*e.g.,* mg/acm, mg/acm @ 160 °C, mg/wscm, mg/dscm).

3.2.3 Other Necessary Data Collection. To convert hourly PM concentrations to the units of the applicable emissions standard (*i.e.,* lb/MMBtu or lb/MWh), you must collect additional data as described in sections 3.2.3.1 and 3.2.3.2 of this appendix. You must install, certify, operate, maintain, and quality-assure any stack gas flow rate, CO_2, O_2, or moisture monitoring systems needed for this purpose according to sections 4 and 5 of this appendix. The calculation methods for the emission limits described in sections 3.2.3.1 and 3.2.3.2 of this appendix are presented in section 6 of this appendix.

3.2.3.1 Heat Input-Based Emission Limits. To demonstrate compliance with a heat input-based PM emission limit in Table 2 to this subpart, you must provide the hourly stack gas CO_2 or O_2 concentration, along with a fuel-specific F_c factor or dry-basis F-factor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to the units of the standard.

3.2.3.2 Gross Output-Based Emission Limits. To demonstrate compliance with a gross output-based PM emission limit in Table 1 or Table 2 to this subpart, you must provide the hourly gross output in megawatts, along with data from a certified stack gas flow rate monitor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to units of the standard.

4. Certification and Recertification Requirements

4.1 *Certification Requirements.* You must certify your PM CEMS and the other CMS used to determine compliance with the applicable emissions standard before the PM CEMS can be used to provide data under this subpart. Redundant backup monitoring systems (if used) are subject to the same certification requirements as the primary systems.

4.1.1 PM CEMS. You must certify your PM CEMS according to PS–11 in appendix B to part 60 of this chapter. A PM CEMS that has been installed and certified according to PS–11 as a result of another state or federal regulatory requirement or consent decree prior to the effective date of this subpart shall be considered certified for this subpart if you can demonstrate that your PM CEMS meets the PS–11 acceptance criteria based on the applicable emission standard in this subpart.

4.1.2 Flow Rate, Diluent Gas, and Moisture Monitoring Systems. You must certify the continuous monitoring systems that are needed to convert PM concentrations to units of the standard or (if applicable) to convert the measured PM concentrations from wet basis to dry basis or vice-versa (*i.e.,* stack gas flow rate, diluent gas (CO_2 or O_2) concentration, or moisture monitoring systems), in accordance with the applicable provisions in section 75.20 of this chapter and appendix A to part 75 of this chapter.

4.1.3 Other Parametric Measurement Devices. Any temperature or pressure measurement devices that are used to convert hourly PM concentrations to standard conditions must be installed, calibrated, maintained, and operated according to the manufacturers' instructions.

4.2 *Recertification.*

4.2.1 You must recertify your PM CEMS if it is either: moved to a different stack or duct; moved to a new location within the same stack or duct; modified or repaired in such a way that the existing correlation is altered or impacted; or replaced.

4.2.2 The flow rate, diluent gas, and moisture monitoring systems that are used to convert PM concentration to units of the emission standard are subject to the recertification provisions in section 75.20(b) of this chapter.

4.3 *Development of a New or Revised Correlation Curve.* You must develop a new or revised correlation curve if:

4.3.1 An RCA is failed and the new or revised correlation is developed according to section 10.6 in Procedure 2 of appendix F to part 60 of this chapter; or

4.3.2 The events described in paragraph (1) or (2) in section 8.8 of PS–11 occur.

5. Ongoing Quality Assurance (QA) and Data Validation

5.1 *PM CEMS.*

5.1.1 Required QA Tests. Following initial certification, you must conduct periodic QA testing of each primary and (if applicable) redundant backup PM CEMS. The required QA tests and the PS that must be met are found in Procedure 2 of appendix F to part 60 of this chapter (Procedure 2). Except as otherwise provided in section 5.1.2 of this appendix, the QA tests shall be done at the frequency specified in Procedure 2.

5.1.2 RRA and RCA Test Frequencies.

5.1.2.1 The test frequency for RRAs of the PM CEMS shall be annual, *i.e.,* once every 4 calendar quarters. The RRA must either be performed within the fourth calendar quarter after the calendar quarter in which the previous RRA was completed or in a grace period (see section 5.1.3, below). When a required annual RRA is done within a grace period, the deadline for the next RRA is 4 calendar quarters after the quarter in which the RRA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.2 The test frequency for RCAs of the PM CEMS shall be triennial, *i.e.,* once every 12 calendar quarters. If a required RCA is not completed within 12 calendar quarters after the calendar quarter in which the previous RCA was completed, it must be performed in a grace period immediately following the twelfth calendar quarter (see section 5.1.3, below). When an RCA is done in a grace period, the deadline for the next RCA shall be 12 calendar quarters after the calendar quarter in which the RCA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.3 Successive quarterly audits (*i.e.,* ACAs and, if applicable, sample volume audits (SVAs)) shall be conducted at least 60 days apart.

5.1.3 Grace Period. A grace period is available, immediately following the end of the calendar quarter in which an RRA or RCA of the PM CEMS is due. The length of the grace period shall be the lesser of 720 EGU (or stack) operating hours or 1 calendar quarter.

5.1.4 RCA and RRA Acceptability. The results of your RRA or RCA are considered acceptable provided that the criteria in section 10.4(5) of Procedure 2 in appendix F to part 60 of this chapter are met for an RCA or section 10.4(6) of Procedure 2 in appendix F to part 60 of this chapter are met for an RRA.

5.1.5 Data Validation. Your PM CEMS is considered to be out-of-control, and you may not report data from it as quality-assured, when, for a required certification, recertification, or QA test, the applicable acceptance criterion (either in PS–11 in appendix B to part 60 of this chapter or Procedure 2 in appendix F to part 60 of this chapter) is not met. Further, data from your PM CEMS are considered out-of-control, and may not be used for reporting, when a required QA test is not performed on schedule or within an allotted grace period. When an out-of-control period occurs, you must perform the appropriate follow-up actions. For an out-of-control period triggered by a failed QA test, you must perform and pass the same type of test in order to end the out-of-control period. For a QA test that is not performed on time, data from the PM CEMS remain out-of-control until the required test has been performed and passed. You must count all out-of-control data periods of the PM CEMS as hours of monitoring system downtime.

5.2 *Stack Gas Flow Rate, Diluent Gas, and Moisture Monitoring Systems.* The on-going QA test requirements and data validation criteria for the primary and (if applicable) redundant backup stack gas flow rate, diluent gas, and moisture monitoring systems are specified in appendix B to part 75 of this chapter.

5.3 *QA/QC Program Requirements.* You must develop and implement a QA/QC program for the PM CEMS and the other equipment that is used to provide data under this subpart. You may store your QA/QC plan

electronically, provided that the information can be made available expeditiously in hard copy to auditors and inspectors.

5.3.1 General Requirements.

5.3.1.1 Preventive Maintenance. You must keep a written record of the procedures needed to maintain the PM CEMS and other equipment that is used to provide data under this subpart in proper operating condition, along with a schedule for those procedures. At a minimum, you must include all procedures specified by the manufacturers of the equipment and, if applicable, additional or alternate procedures developed for the equipment.

5.3.1.2 Recordkeeping Requirements. You must keep a written record describing procedures that will be used to implement the recordkeeping and reporting requirements of this appendix.

5.3.1.3 Maintenance Records. You must keep a record of all testing, maintenance, or repair activities performed on the PM CEMS, and other equipment used to provide data under this subpart in a location and format suitable for inspection. You may use a maintenance log for this purpose. You must maintain the following records for each system or device: The date, time, and description of any testing, adjustment, repair, replacement, or preventive maintenance action performed, and records of any corrective actions taken. Additionally, you must record any adjustment that may affect the ability of a monitoring system or measurement device to make accurate measurements, and you must keep a written explanation of the procedures used to make the adjustment(s).

5.3.2 Specific Requirements for the PM CEMS.

5.3.2.1 Daily, and Quarterly Quality Assurance Assessments. You must keep a written record of the procedures used for daily assessments of the PM CEMS. You must also keep records of the procedures used to perform quarterly ACA and (if applicable) SVA audits. You must document how the test results are calculated and evaluated.

5.3.2.2 Monitoring System Adjustments. You must document how each component of the PM CEMS will be adjusted to provide correct responses after routine maintenance, repairs, or corrective actions.

5.3.2.3 Correlation Tests, Annual and Triennial Audits. You must keep a written record of procedures used for the correlation test(s), annual RRAs, and triennial RCAs of the PM CEMS. You must document how the test results are calculated and evaluated.

5.3.3 Specific Requirements for Diluent Gas, Stack Gas Flow Rate, and Moisture Monitoring Systems. The QA/QC program requirements for the stack gas flow rate, diluent gas, and moisture monitoring systems described in section 3.2.3 of this appendix are specified in section 1 of appendix B to part 75 of this chapter.

5.3.4 Requirements for Other Monitoring Equipment. For the equipment required to convert readings from the PM CEMS to standard conditions (*e.g.,* devices to measure temperature and pressure), you must keep a written record of the calibrations and/or other procedures used to ensure that the devices provide accurate data.

5.3.5 You may store your QA/QC plan electronically, provided that you can make the information available expeditiously in hard copy to auditors or inspectors.

6. Data Reduction and Caculations

6.1 *Data Reduction and Validation.*

6.1.1 You must reduce the data from PM CEMS to hourly averages, in accordance with 40 CFR 60.13(h)(2) of this chapter.

6.1.2 You must reduce all CEMS data from stack gas flow rate, CO_2, O_2, and moisture monitoring systems to hourly averages according to 40 CFR 75.10(d)(1) of this chapter.

6.1.3 You must reduce all other data from devices used to convert readings from the PM CEMS to standard conditions to hourly averages according to 40 CFR 60.13(h)(2) or 40 CFR 75.10(d)(1) of this chapter. This includes, but is not limited to, data from devices used to measure temperature and pressure, or, for cogeneration units that calculate gross output based on steam characteristics, devices to measure steam flow rate, steam pressure, and steam temperature.

6.1.4 Do not calculate the PM emission rate for any unit or stack operating hour in which valid data are not obtained for PM concentration or for any parameter used in the PM emission rate calculations (*i.e.,* gross output, stack gas flow rate, stack temperature, stack pressure, stack gas moisture content, or diluent gas concentration, as applicable).

6.1.5 For the purposes of this appendix, part 75 substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content are not considered to be valid data.

6.1.6 Operating hours in which PM concentration is missing or invalid are hours of monitoring system downtime. The use of substitute data for PM concentration is not allowed.

6.1.7 You must exclude all data obtained during a boiler startup or shutdown operating hour (as defined in 40 CFR 63.10042) from the determination of the 30-boiler operating day rolling average PM emission rates.

6.2 *Calculation of PM Emission Rates.* Unless your PM CEMS is correlated to provide PM concentrations at standard conditions, you must use the calculation methods in sections 6.2.1 through 6.2.3 of this appendix to convert measured PM concentration values to units of the emission limit (lb/MMBtu or lb/MWh, as applicable).

6.2.1 PM concentrations must be at standard conditions in order to convert them to units of the emissions limit. If your PM CEMS measures PM concentrations at standard conditions, proceed to section 6.2.2 or 6.2.3, below (as applicable). However, if your PM CEMS measures PM concentrations in units of mg/acm or mg/acm at a specified temperature (*e.g.,* 160 °C), you must first use one of the following equations to convert the hourly PM concentration values from actual to standard conditions:

$$C_{std} = C_a \left(\frac{460 + T_s}{P_s} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \qquad \text{(Eq. C-1)}$$

or

$$C_{std} = C_a \left(\frac{460 + T_{CEMS}}{P_{CEMS}} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \qquad \text{(Eq. C-2)}$$

Where:

C_{std} = PM concentration at standard conditions

C_a = PM concentration at measurement conditions

T_s = Stack Temperature (°F)

T_{CEMS} = CEMS Measurement Temperature (°F)

P_{CEMS} = CEMS Measurement Pressure (in. Hg)

P_s = Stack Pressure (in. Hg)

T_{std} = Standard Temperature (68 °F)

P_{std} = Standard Pressure (29.92 in. Hg).

6.2.2 Heat Input-Based PM Emission Rates (Existing EGUs, Only). Calculate the hourly heat input-based PM emission rates (if applicable), in units of lb/MMBtu, according to sections 6.2.2.1 and 6.2.2.2 of this appendix.

6.2.2.1 You must select an appropriate emission rate equation from among Equations 19–1 through 19–9 in appendix A–7 to part 60 of this chapter to convert the hourly PM concentration values from section 6.2.1 of this appendix to units of lb/MMBtu. Note that the EPA test Method 19 equations require the pollutant concentration to be expressed in units of lb/scf; therefore, you must first multiply the PM

concentration by 6.24×10^{-8} to convert it from mg/scm to lb/scf.

6.2.2.2 You must use the appropriate carbon-based or dry-basis F-factor in the emission rate equation that you have selected. You may either use an F-factor from Table 19–2 of EPA test Method 19 in appendix A–7 to part 60 of this chapter or from section 3.3.5 or section 3.3.6 of appendix F to part 75 of this chapter.

6.2.2.3 If the hourly average O_2 concentration is above 14.0% O_2 (19.0% for an IGCC) or the hourly average CO_2 concentration is below 5.0% CO_2 (1.0% for an IGCC), you may calculate the PM emission rate using the applicable diluent cap value (as defined in 40 CFR 63.10042 and specified in 40 CFR 63.10007(f)(1)), provided that the diluent gas monitor is operating and recording quality-assured data).

6.2.2.4 If your selected EPA test Method 19 equation requires a correction for the stack gas moisture content, you may either use quality-assured hourly data from a certified part 75 moisture monitoring system, a fuel-specific default moisture value from 40 CFR 75.11(b) of this chapter, or a site-specific default moisture value approved by the Administrator under section 75.66 of this chapter.

6.2.3 Gross Output-Based PM Emission Rates. For each unit or stack operating hour, if C_{std} is measured on a wet basis, you must use Equation C–3 to calculate the gross output-based PM emission rate (if applicable). Use Equation C–4 if C_{std} is measured on a dry basis:

$$E_{heo} = 6.24\ x\ 10^{-8} \left(\frac{C_{std}\ Q_s}{MW} \right) \qquad \text{(Eq. C-3)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh)

C_{std} = PM concentration from section 6.2.1 (mg/scm), wet basis

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis)

MW = Gross output (megawatts)

6.24×10^{-8} = Conversion factor

or

$$E_{heo} = 6.24\ x\ 10^{-8} \left(\frac{C_{std}\ Q_s}{MW} \right) (1 - B_{ws}) \qquad \text{(Eq. C-4)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh)

C_{std} = PM concentration from section 6.2.1 (mg/scm), dry basis

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis)

MW = Gross output (megawatts)

B_{ws} = Proportion by volume of water vapor in the stack gas

6.24×10^{-8} = Conversion factor

6.2.4 You must calculate the 30–boiler operating day rolling average PM emission rates according to 40 CFR 63.10021(b).

7. Recordkeeping and Reporting

7.1 *Recordkeeping Provisions.* For the PM CEMS and the other necessary CMS and parameter measurement devices installed at each affected unit or common stack, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with 40 CFR 63.10033. The file shall contain the applicable information in sections 7.1.1 through 7.1.11 of this appendix.

7.1.1 Monitoring Plan Records. For each EGU or group of EGUs monitored at a common stack, you must prepare and maintain a monitoring plan for the PM CEMS and the other CMS(s) needed to convert PM concentrations to units of the applicable emission standard.

7.1.1.1 Updates. If you make a replacement, modification, or change in a certified CEMS that is used to provide data under this appendix (including a change in the automated data acquisition and handling system (DAHS)) or if you make a change to the flue gas handling system and that replacement, modification, or change affects information reported in the monitoring plan (*e.g.,* a change to a serial number for a component of a monitoring system), you shall update the monitoring plan.

7.1.1.2 Contents of the Monitoring Plan. For the PM CEMS, your monitoring plan shall contain the applicable information in sections 7.1.1.2.1 and 7.1.1.2.2 of this appendix. For required stack gas flow rate, diluent gas, and moisture monitoring systems, your monitoring plan shall include the applicable information required for those systems under 40 CFR 75.53 (g) and (h) of this chapter.

7.1.1.2.1 Electronic. Your electronic monitoring plan records must include the following information: Unit or stack ID number(s); unit information (type of unit, maximum rated heat input, fuel type(s), emission controls); monitoring location(s); the monitoring methodologies used; monitoring system information, including (as applicable): Unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate emissions; operating range and load information; monitor span and range information; units of measure of your PM concentrations (see section 3.2.2); and appropriate default values. Your electronic monitoring plan shall be evaluated and submitted using the ECMPS Client Tool provided by the Clean Air Markets Division (CAMD) in EPA's Office of Atmospheric Programs.

7.1.1.2.2 Hard Copy. You must keep records of the following items: Schematics and/or blueprints showing the location of the PM monitoring system(s) and test ports; data flow diagrams; test protocols; and miscellaneous technical justifications. The hard copy portion of the monitoring plan must also explain how the PM concentrations are measured and how they are converted to the units of the applicable emissions limit. The equation(s) used for the conversions must be documented. Electronic storage of the hard copy portion of the monitoring plan is permitted.

7.1.2 Operating Parameter Records. You must record the following information for each operating hour of each EGU and also for each group of EGUs utilizing a monitored common stack, to the extent that these data are needed to convert PM concentration data to the units of the emission standard. For non-operating hours, you must record only the items in sections 7.1.2.1 and 7.1.2.2 of this appendix. If you elect to or are required to comply with a gross output-based PM standard, for any hour in which there is gross output greater than zero, you must record the items in sections 7.1.2.1 through 7.1.2.3 and (if applicable) 7.1.2.5 of this appendix; however, if there is heat input to the unit(s) but no gross output (*e.g.,* at unit startup), you must record the items in sections 7.1.2.1, 7.1.2.2, and, if applicable, section 7.1.2.5 of this appendix. If you elect to comply with a heat input-based PM standard, you must record only the items in sections 7.1.2.1, 7.1.2.2, 7.1.2.4, and, if applicable, section 7.1.2.5 of this appendix.

7.1.2.1 The date and hour;

7.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from 1 hundredth to 1 quarter of an hour, at your option);

7.1.2.3 The hourly gross output (rounded to nearest MWe);

7.1.2.4 If applicable, the F_c factor or dry-basis F-factor used to calculate the heat input-based PM emission rate; and

7.1.2.5 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

7.1.3 PM Concentration Records. For each affected unit or common stack using a PM CEMS, you must record the following

information for each unit or stack operating hour:

7.1.3.1 The date and hour;

7.1.3.2 Monitoring system and component identification codes for the PM CEMS, as provided in the electronic monitoring plan, if your CEMS provides a quality-assured value of PM concentration for the hour;

7.1.3.3 The hourly PM concentration, in units of measure that correspond to your PM CEMS correlation curve, for each operating hour in which a quality-assured value is obtained. Record all PM concentrations with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

7.1.3.4 A special code, indicating whether or not a quality-assured PM concentration is obtained for the hour; and

7.1.3.5 Monitor data availability for PM concentration, as a percentage of unit or stack operating hours calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to 40 CFR 75.32 of this chapter.

7.1.4 Stack Gas Volumetric Flow Rate Records.

7.1.4.1 When a gross output-based PM emissions limit must be met, in units of lb/MWh, you must obtain hourly measurements of stack gas volumetric flow rate during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.4.2 When hourly measurements of stack gas flow rate are needed, you must keep hourly records of the flow rates and related information, as specified in 40 CFR 75.57(c)(2) of this chapter.

7.1.5 Records of Diluent Gas (CO_2 or O_2) Concentration.

7.1.5.1 When a heat input-based PM emission limit must be met, in units of lb/MMBtu, you must obtain hourly measurements of CO_2 or O_2 concentration during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.5.2 When hourly measurements of diluent gas concentration are needed, you must keep hourly CO_2 or O_2 concentration records, as specified in 40 CFR 75.57(g) of this chapter.

7.1.6 Records of Stack Gas Moisture Content.

7.1.6.1 When corrections for stack gas moisture content are needed to demonstrate compliance with the applicable PM emissions limit:

7.1.6.1.1 If you use a continuous moisture monitoring system, you must keep hourly records of the stack gas moisture content and related information, as specified in 40 CFR 75.57(c)(3) of this chapter.

7.1.6.1.2 If you use a fuel-specific default moisture value, you must represent it in the electronic monitoring plan required under section 7.1.1.2.1 of this appendix.

7.1.7 PM Emission Rate Records. For applicable PM emission limits in units of lb/MMBtu or lb/MWh, you must record the following information for each affected EGU or common stack:

7.1.7.1 The date and hour;

7.1.7.2 The hourly PM emissions rate (lb/MMBtu or lb/MWh, as applicable), calculated according to section 6.2.2 or 6.2.3 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. You must calculate the PM emission rate only when valid values of PM concentration and all other required parameters required to convert PM concentration to the units of the standard are obtained for the hour;

7.1.7.3 An identification code for the formula used to derive the hourly PM emission rate from measurements of the PM concentration and other necessary parameters (*i.e.,* Equation C–3 or C–4 in section 6.2.3 of this appendix or the applicable EPA test Method 19 equation);

7.1.7.4 If applicable, indicate that the diluent cap has been used to calculate the PM emission rate; and

7.1.7.5 If applicable, indicate that the default electrical load (as defined in 40 CFR 63.10042) has been used to calculate the hourly PM emission rate.

7.1.7.6 Indicate that the PM emission rate was not calculated for the hour, if valid data are not obtained for PM concentration and/or any of the other parameters in the PM emission rate equation. For the purposes of this appendix, substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content reported under part 75 of this chapter are not considered to be valid data. However, when the gross output (as defined in 40 CFR 63.10042) is reported for an operating hour with zero output, the default electrical load value is treated as quality-assured data.

7.1.8 Other Parametric Data. If your PM CEMS measures PM concentrations at actual conditions, you must keep records of the temperatures and pressures used in Equation C–1 or C–2 to convert the measured hourly PM concentrations to standard conditions.

7.1.9 Certification, Recertification, and Quality Assurance Test Records. For any PM CEMS used to provide data under this subpart, you must record the following certification, recertification, and quality assurance information:

7.1.9.1 The test dates and times, reference values, monitor responses, monitor full scale value, and calculated results for the required 7-day drift tests and for the required daily zero and upscale calibration drift tests;

7.1.9.2 The test dates and times and results (pass or fail) of all daily system optics checks and daily sample volume checks of the PM CEMS (as applicable);

7.1.9.3 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly ACAs;

7.1.9.4 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly SVAs of extractive PM CEMS;

7.1.9.5 The test dates and times, reference method readings and corresponding PM CEMS responses (including the units of measure), and the calculated results for all PM CEMS correlation tests, RRAs and RCAs. For the correlation tests, you must indicate which model is used (*i.e.,* linear, logarithmic, exponential, polynomial, or power) and record the correlation equation. For the RRAs and RCAs, the reference method readings and PM CEMS responses must be reported in the same units of measure as the PM CEMS correlation;

7.1.9.6 The cycle time and sample delay time for PM CEMS that operate in batch sampling mode; and

7.1.9.7 Supporting information for all required PM CEMS correlation tests, RRAs, and RCAs, including records of all raw reference method and monitoring system data, the results of sample analyses to substantiate the reported test results, as well as records of sampling equipment calibrations, reference monitor calibrations, and analytical equipment calibrations.

7.1.10 For stack gas flow rate, diluent gas, and moisture monitoring systems, you must keep records of all certification, recertification, diagnostic, and on-going quality-assurance tests of these systems, as specified in 40 CFR 75.59(a) of this chapter.

7.1.11 For each temperature measurement device (*e.g.,* resistance temperature detector or thermocouple) and pressure measurement device used to convert measured PM concentrations to standard conditions according to Equation C–1 or C–2, you must keep records of all calibrations and other checks performed to ensure that accurate data are obtained.

7.2 *Reporting Requirements.*

7.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM emissions from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

7.2.1.1 Notifications, in accordance with section 7.2.2 of this appendix;

7.2.1.2 Monitoring plan reporting, in accordance with section 7.2.3 of this appendix;

7.2.1.3 Certification, recertification, and quality assurance test submittals, in accordance with section 7.2.4 of this appendix; and

7.2.1.4 Electronic quarterly emissions report submittals, in accordance with section 7.2.5 of this appendix.

7.2.2 Notifications. You must provide notifications for each affected unit (or group of units monitored at a common stack) under this subpart in accordance with 40 CFR 63.10030.

7.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using PM CEMS to measure PM emissions, you must make electronic and hard copy monitoring plan submittals as follows:

7.2.3.1 For an EGU that begins reporting hourly PM concentrations on January 1, 2024, with a previously certified PM CEMS, submit the monitoring plan information in

section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of PM emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the PM CEMS. Also submit the monitoring plan information in 40 CFR 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

7.2.3.2 Whenever an update of the monitoring plan is required, as provided in section 7.1.1.1 of this appendix, you must submit the updated information either prior to or concurrent with the relevant quarterly electronic emissions report.

7.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool. Hard copy portions of the monitoring plan shall be submitted to the appropriate delegated authority.

7.2.4 Certification, Recertification, and Quality-Assurance Test Reporting. Except for daily quality assurance tests of the required monitoring systems (*i.e.,* calibration error or drift tests, sample volume checks, system optics checks, and flow monitor interference checks), you must submit the results of all required certification, recertification, and quality-assurance tests described in sections 7.1.9.1 through 7.1.9.6 and 7.1.10 of this appendix electronically (except for test results previously submitted, *e.g.,* under the Acid Rain Program), using the ECMPS Client Tool. Submit the results of the quality assurance test (*i.e.,* RCA or RRA) or, if applicable, a new PM CEMS correlation test, either prior to or concurrent with the relevant quarterly electronic emissions report. If this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the quality assurance test or correlation, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. For an RRA or RCA, if the applicable audit specifications are met, the status of the emissions data in the relevant time period changes from provisional to quality-assured, and no further action is required. For a successful correlation test, apply the correlation equation retrospectively to the raw data to change the provisional status of the data to quality-assured, and resubmit the affected emissions report(s). However, if the applicable performance specifications are not met, the provisional data must be invalidated, and resubmission of the affected quarterly emission report(s) is required. For a failed RRA or RCA, you must take corrective actions and proceed according to the applicable requirements found in sections 10.5 through 10.7 of Procedure 2 until a successful quality assurance test report is submitted. If a correlation test is unsuccessful, you may not report quality-assured data from the PM CEMS until the results of a subsequent correlation test show that the specifications in section 13.0 of PS 11 are met.

7.2.5 Quarterly Reports.

7.2.5.1 For each affected EGU (or group of EGUs monitored at a common stack), the owner or operator must use the ECMPS Client Tool to submit electronic quarterly emissions reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

7.2.5.1.1 The first calendar quarter of 2024; or

7.2.5.1.2 The calendar quarter in which the initial PM CEMS correlation test is completed.

7.2.5.2 You must submit the electronic reports within 30 days following the end of each calendar quarter, except for EGUs that have been placed in long-term cold storage (as defined in section 72.2 of this chapter).

7.2.5.3 Each of your electronic quarterly reports shall include the following information:

7.2.5.3.1 The date of report generation;

7.2.5.3.2 Facility identification information;

7.2.5.3.3 The information in sections 7.1.2 through 7.1.7 of this appendix that is applicable to your PM emission measurement methodology; and

7.2.5.3.4 The results of all daily quality assurance assessments, *i.e.,* calibration drift checks and (if applicable) sample volume checks of the PM CEMS, calibration error tests of the other continuous monitoring systems that are used to convert PM concentration to units of the standard, and (if applicable) flow monitor interference checks.

7.2.5.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that all PM emissions from the affected unit(s) under this subpart have been correctly and fully monitored, the owner or operator must submit a compliance certification in support of each electronic quarterly emissions monitoring report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

■ 19. Subpart UUUUU of part 63 is amended by adding appendix D, to read as follows:

Appendix D to SUBPART UUUUU of Part 63—PM CPMS Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous monitoring of the output from a PM CPMS, for the purpose of assessing continuous compliance with an applicable emissions limit in Table 1 or Table 2 to this subpart.

1.2 *Summary of the Method.* The output from an instrument capable of continuously measuring PM concentration is continuously recorded, either in milliamps, PM concentration, or other units of measure. An operating limit for the PM CPMS is established initially, based on data recorded by the monitoring system during a performance stack test. The performance test is repeated annually, and the operating limit is reassessed. In-between successive performance tests, the output from the PM CPMS serves as an indicator of continuous compliance with the applicable emissions limit.

2. Continuous Monitoring of the PM CPMS Output

2.1 *System Design and Performance Criteria.* The PM CPMS must meet the design and performance criteria specified in 40 CFR 63.10010(h)(1)(i) through (iii) and 40 CFR 63.10023(b)(2)(iii) and (iv). In addition, an automated DAHS is required to record the output from the PM CPMS and to generate the quarterly electronic data reports required under section 3.2.4 of this appendix.

2.2 *Installation Requirements.* Install the PM CPMS at an appropriate location in the stack or duct, in accordance with 40 CFR 63.10010(a).

2.3 *Determination of Operating Limits.*

2.3.1 In accordance with 40 CFR 63.10007(a)(3), 40 CFR 63.10011(b), 40 CFR 63.10023(a), and Table 6 to this subpart, you must determine an initial site-specific operating limit for your PM CPMS, using data recorded by the monitoring system during a performance stack test that demonstrates compliance with one of the following emissions limits in Table 1 or Table 2 to this subpart: Filterable PM; total non-Hg HAP metals; total HAP metals including Hg (liquid oil-fired units, only); individual non-Hg HAP metals; or individual HAP metals including Hg (liquid oil-fired units, only).

2.3.2 In accordance with 40 CFR 63.10005(d)(2)(i), you must perform the initial stack test no later than the applicable date in 40 CFR 63.9984(f), and according to 40 CFR 63.10005(d)(2)(iii) and 63.10006(a), the performance test must be repeated annually to document compliance with the emissions limit and to reassess the operating limit.

2.3.3 Calculate the operating limits according to 40 CFR 63.10023(b)(1) for existing units, and 40 CFR 63.10023(b)(2) for new units.

2.4 *Data Reduction and Compliance Assessment.*

2.4.1 Reduce the output from the PM CPMS to hourly averages, in accordance with 40 CFR 63.8(g)(2) and (5).

2.4.2 To determine continuous compliance with the operating limit, you must calculate 30-boiler operating day rolling average values of the output from the PM CPMS, in accordance with 40 CFR 63.10010(h)(3) through (6), 40 CFR 63.10021(c), and Table 7 to this subpart.

2.4.3 In accordance with 40 CFR 63.10005(d)(2)(ii), 40 CFR 63.10022(a)(2), and Table 4 to this subpart, the 30-boiler operating day rolling average PM CPMS output must be maintained at or below the operating limit. However, if exceedances of the operating limit should occur, you must follow the applicable procedures in 40 CFR 63.10021(c)(1) and (2).

3. RECORDKEEPING AND REPORTING.

3.1 *Recordkeeping Provisions.* You must keep the applicable records required under

40 CFR 63.10032(b) and (c) for your PM CPMS. In addition, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with 40 CFR 63.10033.

3.1.1 Monitoring Plan Records.

3.1.1.1 You must develop and maintain a site-specific monitoring plan for your PM CPMS, in accordance with 63.10000(d).

3.1.1.2 In addition to the site-specific monitoring plan required under 40 CFR 63.10000(d), you must use the ECMPS Client Tool to prepare and maintain an electronic monitoring plan for your PM CPMS.

3.1.1.2.1 Contents of the Electronic Monitoring Plan. The electronic monitoring plan records must include the unit or stack ID number(s), monitoring location(s), the monitoring methodology used (*i.e.,* PM CPMS), the current operating limit of the PM CPMS (including the units of measure), unique system and component ID numbers, the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

3.1.1.2.2 Electronic Monitoring Plan Updates. If you replace or make a change to a PM CPMS that is used to provide data under this subpart (including a change in the automated DAHS) and the replacement or change affects information reported in the electronic monitoring plan (*e.g.,* changes to the make, model and serial number when a PM CPMS is replaced), you must update the monitoring plan.

3.1.2 Operating Parameter Records. You must record the following information for each operating hour of each affected unit and for each group of units utilizing a common stack. For non-operating hours, record only the items in sections 3.1.2.1 and 3.1.2.2 of this appendix.

3.1.2.1 The date and hour;

3.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from 1 hundredth to 1 quarter of an hour, at the option of the owner or operator); and

3.1.2.3 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

3.1.3 PM CPMS Output Records. For each affected unit or common stack using a PM CPMS, you must record the following information for each unit or stack operating hour:

3.1.3.1 The date and hour;

3.1.3.2 Monitoring system and component identification codes for the PM CPMS, as provided in the electronic monitoring plan, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained;

3.1.3.3 The hourly average output from the PM CPMS, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained, either in milliamps, PM concentration, or other units of measure, as applicable;

3.1.3.4 A special code for each operating hour in which the PM CPMS is out-of-control and a valid value of the output parameter is not obtained; and

3.1.3.5 Percent monitor data availability for the PM CPMS, calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to section 75.32 of this chapter.

3.1.4 Records of PM CPMS Audits and Out-of-Control Periods. In accordance with 40 CFR 63.10010(h)(7), you must record, and make available upon request, the results of PM CPMS performance audits, as well as the dates of PM CPMS out-of-control periods and the corrective actions taken to return the system to normal operation.

3.2 *Reporting Requirements.*

3.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM CPMS data from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

3.2.1.1 Notifications, in accordance with section 3.2.2 of this appendix;

3.2.1.2 Monitoring plan reporting, in accordance with section 3.2.3 of this appendix;

3.2.1.3 Report submittals, in accordance with sections 3.2.4 and 3.2.5 of this appendix.

3.2.2 Notifications. You must provide notifications for the affected unit (or group of units monitored at a common stack) in accordance with 40 CFR 63.10030.

3.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using a PM CPMS you must make monitoring plan submittals as follows:

3.2.3.1 For units using the PM CPMS compliance option prior to January 1, 2024, submit the electronic monitoring plan information in section 3.1.1.2.1 of this appendix prior to or concurrent with the first required electronic quarterly report. For units switching to the PM CPMS methodology on or after January 1, 2024, submit the electronic monitoring plan no later than 21 days prior to the date on which the PM test is performed to establish the initial operating limit.

3.2.3.2 Whenever an update of the electronic monitoring plan is required, as provided in section 3.1.1.2.2 of this appendix, the updated information must be submitted either prior to or concurrent with the relevant quarterly electronic emissions report.

3.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool.

3.2.3.4 In accordance with 40 CFR 63.10000(d), you must submit the site-specific monitoring plan described in section 3.1.1.1 of this appendix to the Administrator, if requested.

3.2.4 Electronic Quarterly Reports.

3.2.4.1 For each affected EGU (or group of EGUs monitored at a common stack) that is subject to the provisions of this appendix, reporting of hourly responses from the PM CPMS will begin either with the first operating hour in the third quarter of 2023 or the first operating hour after completion of the initial stack test that establishes the operating limit, whichever is later. The owner or operator must then use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

3.2.4.1.1 The first calendar quarter of 2024; or

3.2.4.1.2 The calendar quarter in which the initial operating limit for the PM CPMS is established.

3.2.4.2 The electronic quarterly reports must be submitted within 30 days following the end of each calendar quarter, except for units that have been placed in long-term cold storage (as defined in section 72.2 of this chapter).

3.2.4.3 Each electronic quarterly report shall include the following information:

3.2.4.3.1 The date of report generation;

3.2.4.3.2 Facility identification information; and

3.2.4.3.3 The information in sections 3.1.2 and 3.1.3 of this appendix.

3.2.4.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that the output from the PM CPMS has been correctly and fully monitored, the owner or operator shall submit a compliance certification in support of each electronic quarterly report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

3.2.5 Performance Stack Test Results. You must use the ECMPS Client Tool to report the results of all performance stack tests conducted to document compliance with the applicable emissions limit in Table 1 or Table 2 to this subpart, as follows:

3.2.5.1 Report a summary of each test electronically, in XML format, in the relevant quarterly compliance report under 40 CFR 63.10031(g); and

3.2.5.2 Provide a complete stack test report as a PDF file, in accordance with 40 CFR 63.10031(f) or (h), as applicable.

■ 20. Subpart UUUUU of part 63 is amended by adding appendix E, to read as follows:

Appendix E to Subpart UUUUU of Part 63—Data Elements

1.0 You must record the electronic data elements in this appendix that apply to your compliance strategy under this subpart. The applicable data elements in sections 2 through 13 of this appendix must be reported in the quarterly compliance reports required under 40 CFR 63.10031(g), in an XML format prescribed by the Administrator, starting with a report that covers the first quarter of 2024. For stack tests used to demonstrate compliance, RATAs, PM CEMS correlations, RRAs and RCAs that are completed on and after January 1, 2024, the applicable data elements in sections 17 through 30 of this appendix must be reported in an XML format prescribed by the Administrator, and the information in section 31 of this appendix must be reported in as one or more PDF files.

2.0 *MATS Compliance Report Root Data Elements.* You must record the following data elements and include them in each quarterly compliance report:

2.1 Energy Information Administration's Office of Regulatory Information Systems (ORIS) Code;
2.2 Facility Name;
2.3 Facility Registry Identifier;
2.4 Title 40 Part;
2.5 Applicable Subpart;
2.6 Calendar Year;
2.7 Calendar Quarter; and
2.8 Submission Comment (optional)

3.0 *Performance Stack Test Summary.* If you elect to demonstrate compliance using periodic performance stack testing (including 30-boiler operating day Hg LEE tests), record the following data elements for each test:
3.1 Parameter
3.2 Test Location ID;
3.3 Test Number;
3.4 Test Begin Date, Hour, and Minute;
3.5 Test End Date, Hour, and Minute;
3.6 Timing of Test (either performed on-schedule according to 40 CFR 63.10006(f), or was late);
3.7 Averaging Plan Indicator;
3.8 Averaging Group ID (if applicable);
3.9 EPA Test Method Code;
3.10 Emission Limit, Including Units of Measure;
3.11 Average Pollutant Emission Rate;
3.12 LEE Indicator;
3.13 LEE Basis (if applicable); and
3.14 Submission Comment (optional)

4.0 *Operating limit Data (PM CPMS, only):*
4.1 Parameter Type;
4.2 Operating Limit; and
4.3 Units of Measure.

5.0 *Performance Test Run Data.* For each run of the performance stack test, record the following data elements:
5.1 Run Number
5.2 Run Begin Date, Hour, and Minute;
5.3 Run End Date, Hour, and Minute;
5.4 Pollutant Concentration and Units of Measure;
5.5 Emission Rate;
5.6 EPA Test Method 19 Equation (if applicable);
5.7 Total Sampling Time; and
5.8 Total Sample Volume.

6.0 *Conversion Parameters.* For the parameters that are used to convert the pollutant concentration to units of the emission standard (including, as applicable, CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, F-factors, and gross output), record:
6.1 Parameter Type;
6.2 Parameter Source; and
6.3 Parameter Value, Including Units of Measure.

7.0 *Quality Assurance Parameters:* For key parameters that are used to quality-assure the reference method data (including, as applicable, filter temperature, percent isokinetic, leak check results, percent breakthrough, percent spike recovery, and relative deviation), record:
7.1 Parameter Type;
7.2 Parameter Value; and
7.3 Pass/Fail Status.

8.0 *Averaging Group Configuration.* If a particular EGU or common stack is included in an averaging plan, record the following data elements:
8.1 Parameter Being Averaged;
8.2 Averaging Group ID; and
8.3 Unit or Common Stack ID.

9.0 *Compliance Averages.* If you elect to (or are required to) demonstrate compliance using continuous monitoring system(s) on a 30-boiler operating day rolling average basis (or on a 30- or 90-group boiler operating day rolling WAER basis, if your monitored EGU or common stack is in an averaging plan), you must record the following data elements for each average emission rate (or, for units in an averaging plan, for each WAER):
9.1 Unit or Common Stack ID;
9.2 Averaging Group ID (if applicable);
9.3 Parameter Being Averaged;
9.4 Date;
9.5 Average Type;
9.6 Units of Measure; and
9.7 Average Value.
9.8 Comment Field.

10.0 *Unit Information.* You must record the following data elements for each EGU:
10.1 Unit ID;
10.2 Date of Last Tune-up; and
10.3 Emergency Bypass Information. If your coal-fired EGU, solid oil-derived fuel-fired EGU, or IGCC is equipped with a main stack and a bypass stack (or bypass duct) configuration, and has qualified to use the LEE compliance option, you must report the following emergency bypass information annually, in the compliance report for the fourth calendar quarter of the year:
10.3.1 The number of emergency bypass hours for the year, as a percentage of the EGU's annual operating hours;
10.3.2 A description of each emergency bypass event during the year, including the cause and corrective actions taken;
10.3.3 An explanation of how clean fuels were burned to the maximum extent possible during each emergency bypass event;
10.3.4 An estimate of the emissions released during each emergency bypass event. You must also show whether LEE status has been retained or lost, based on the emissions estimate and the results of the previous LEE retest; and
10.3.5 If there were no emergency bypass events during the year, a statement to that effect.

11.0 *Fuel Usage Information.* If subject to an emissions limit, record the following monthly fuel usage information:
11.1 Calendar Month;
11.2 Each Type of Fuel Used During the Calendar Month in the Quarter;
11.3 Quantity of Each Type of Fuel Combusted in Each Calendar Month in the Quarter, with Units of Measure;
11.4 New Fuel Type Indicator (if applicable); and
11.5 Date of Performance Test Using the New Fuel (if applicable.

12.0 *Malfunction Information (if applicable):* If there was a malfunction of the process equipment or control equipment during the reporting period that caused (or may have caused) an exceedance of an emissions or operating limit, record:
12.1 Event Begin Date and Hour (if known);
12.2 Event End Date and Hour;
12.3 Malfunction Description; and
12.4 Corrective Action.

13.0 *Deviations and Monitoring Downtime.* If there were any deviations or monitoring downtime during the reporting period, record:
13.1 Unit, Common Stack, or Averaging Group ID;
13.2 The nature of the deviation, as either:
13.2.1 Emission limit exceeded;
13.2.2 Operating limit exceeded;
13.2.3 Work practice standard not met;
13.2.4 Testing requirement not met;
13.2.5 Monitoring requirement not met;
13.2.6 Monitoring downtime incurred; or
13.2.7 Other requirement not met.
13.3 A description of the deviation, or monitoring downtime, as follows:
13.3.1 For a performance stack test or a 30- (or 90-) boiler operating day rolling average that exceeds an emissions or operating limit, record the parameter (*e.g.,* HCl, Hg, PM), the limit that was exceeded, and either the date of the non-complying performance test or the beginning and ending dates of the non-complying rolling average;
13.3.2 If an unmonitored bypass stack was used during the reporting period, record the total number of hours of bypass stack usage;
13.3.3 For periods where valid monitoring data are not reported during the reporting period, record the monitored parameter, the total source operating time (hours), and the total number of hours of monitoring deviation or downtime and other information, as indicated, for:
13.3.3.1 Monitoring system malfunctions/repairs (deviation and downtime);
13.3.3.2 Out-of-control periods/repairs (deviation and downtime);
13.3.3.3 Non-monitoring equipment malfunctions (downtime);
13.3.3.4 QA/QC activities (excluding zero and span checks) (downtime);
13.3.3.5 Routine maintenance (downtime);
13.3.3.6 Other known causes (downtime); and
13.3.3.7 Unknown causes (downtime).
13.3.4 If a performance stack test was due within the quarter but was not done, record the parameter (*e.g.,* HCl, PM), the test deadline, and a statement that the test was not done as required;
13.3.5 For a late performance stack test conducted during the quarter, record the parameter, the test deadline, and the number of days that elapsed between the test deadline and the test completion date.
13.4 Record any corrective actions taken in response to the deviation.
13.5 If there were no deviations and/or no monitoring downtime during the quarter, record a statement to that effect.

14.0 *Reference Method Data Elements.* For each of the following tests that is completed on and after January 1, 2024, you must record and report the applicable electronic data elements in sections 17 through 29 of this appendix, pertaining to the reference method(s) used for the test (see section 16 of this appendix).
14.1 Each quarterly, annual, or triennial stack test used to demonstrate compliance (including 30- (or 90-) boiler operating day Hg LEE tests and PM tests used to set operating limits for PM CPMS);

14.2 Each RATA of your Hg, HCl, HF, or SO_2 CEMS or each RATA of your Hg sorbent trap monitoring system; and

14.3 Each correlation test, RRA and each RCA of your PM CEMS.

15.0 You must report the applicable data elements for each test described in section 14 of this appendix in an XML format prescribed by the Administrator.

15.1 For each stack test completed during a particular calendar quarter and contained in the quarterly compliance report, you must submit along with the quarterly compliance report, the data elements in sections 17 and 18 of this appendix (which are common to all tests) and the applicable data elements in sections 19 through 31 of this appendix associated with the reference method(s) used.

15.2 For each RATA, PM CEMS correlation, RRA, or RCA, when you use the ECMPS Client Tool to report the test results as required under appendix A, B, or C to this subpart or, for SO_2 RATAs under part 75 of this chapter, you must submit along with the test results, the data elements in sections 17 and 18 of this appendix and, for each test run, the data elements in sections 19 through 30 of this appendix that are associated with the reference method(s) used.

15.3 For each stack test, RATA, PM CEMS correlation, RRA, and RCA, you must also provide the information described in section 31 of this appendix as a PDF file, either along with the quarterly compliance report (for stack tests) or together with the test results reported under appendix A, B, or C to this subpart or part 75 of this chapter (for RATAs, RRAs, RCAs, or PM CEMS correlations).

16.0 *Applicable Reference Methods.* One or more of the following EPA reference methods is needed for the tests described in sections 14.1 through 14.3 of this appendix: Method 1, 2, 3A, 4, 5, 5D, 6C, 26, 26A, 29, and/or 30B.

16.1 Application of EPA test Methods 1 and 2. If you use periodic stack testing to comply with an *output-based* emissions limit, you must determine the stack gas flow rate during each performance test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. For EPA test Methods 5, 5D, 26A and 29, which require isokinetic sampling, the delta-P readings made with the pitot tube and manometer at the EPA test Method 1 traverse points, taken together with measurements of stack gas temperature, pressure, diluent gas concentration (from a separate EPA test Method 3A or 3B test) and moisture, provide the necessary data for the EPA test Method 2 flow rate calculations. Note that even if you elect to comply with a *heat input-based* standard, when EPA test Method 5, 5D, 26A, or 29 is used, you must still use EPA test Method 2 to determine the average stack gas velocity (v_s), which is needed for the percent isokinetic calculation. The EPA test Methods 26 and 30B do not require isokinetic sampling; therefore, when either of these methods is used, if the stack gas flow rate is needed to comply with the applicable *output-based* emissions limit, you must make a separate EPA test Method 2 determination during each test run.

16.2 Application of EPA test Method 3A. If you elect to perform periodic stack testing to comply with a *heat input-based* emissions limit, a separate measurement of the diluent gas (CO_2 or O_2) concentration is required for each test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. The EPA test Method 3A is the preferred CO_2 or O_2 test method, although EPA test Method 3B may be used instead. Diluent gas measurements are also needed for stack gas molecular weight determinations when using EPA test Method 2.

16.3 Application of EPA test Method 4. For performance stack tests, depending on which equation is used to convert pollutant concentration to units of the standard, measurement of the stack gas moisture content, using EPA test Method 4, may also be required for each test run. The EPA test Method 4 moisture data are also needed for the EPA test Method 2 calculations (to determine the molecular weight of the gas) and for the RATA of an Hg CEMS that measures on a wet basis, when EPA test Method 30B is used. Other applications that require EPA test Method 4 moisture determinations include: RATAs of an SO_2 monitor, when the reference method and CEMS data are measured on a different moisture basis (wet or dry); conversion of wet-basis pollutant concentrations to the units of a *heat input-based* emissions limit when certain EPA test Method 19 equations are used (*e.g.,* Eq. 19–3, 19–4, or 19–8); and stack gas molecular weight determinations. When EPA test Method 5, 5D, 26A, or 29 is used for the performance test, the EPA test Method 4 moisture determination may be made by using the water collected in the impingers together with data from the dry gas meter; alternatively, a separate EPA test Method 4 determination may be made. However, when EPA test Method 26 or 30B is used, EPA test Method 4 must be performed separately.

16.4 Applications of EPA test Methods 5 and 5D. The EPA test Method 5 (or, if applicable 5D) must be used for the following applications: To demonstrate compliance with a filterable PM emissions limit; for PM tests used to set operating limits for PM CPMS; and for the initial correlations, RRAs and RCAs of a PM CEMS.

16.5 Applications of EPA test Method 6C. If you elect to monitor SO_2 emissions from your coal-fired EGU as a surrogate for HCl, the SO_2 CEMS must be installed, certified, operated, and maintained according to 40 CFR part 75. Part 75 allows the use of EPA test Methods 6, 6A, 6B, and 6C for the required RATAs of the SO_2 monitor. However, in practice, only instrumental EPA test Method 6C is used.

16.6 Applications of EPA test Methods 26 and 26A. The EPA test Method 26A may be used for quarterly HCl or HF stack testing, or for the RATA of an HCl or HF CEMS. The EPA test Method 26 may be used for quarterly HCl or HF stack testing; however, for the RATAs of an HCl monitor that is following PS 18 and Procedure 6 in appendices B and F to part 60 of this chapter, EPA test Method 26 may only be used if approved upon request.

16.7 Applications of EPA test Method 29. The EPA test Method 29 may be used for periodic performance stack tests to determine compliance with individual or total HAP metals emissions limits. For coal-fired EGUs, the total HAP emissions limits exclude Hg.

16.8 Applications of EPA test Method 30B. The EPA test Method 30B is used for 30- (or 90-) boiler operating day Hg LEE tests and RATAs of Hg CEMS and sorbent trap monitoring systems, and it may be used for quarterly Hg stack testing (oil-fired EGUs, only).

17.0 *Facility and Test Company Information.* In accordance with 40 CFR 63.7(e)(3), a test is defined as three or more runs of one or more EPA Reference Method(s) conducted to measure the amount of a specific regulated pollutant, pollutants, or surrogates being emitted from a particular EGU (or group of EGUs that share a common stack), and to satisfy requirements of this subpart. On or after January 1, 2024, you must report the data elements in sections 17 and 18, each time that you complete a required performance stack test, RATA, PM CEMS correlation, RRA, or RCA at the affected EGU(s), using EPA test Method 5, 5B, 5D, 6C, 26, 26A, 29, or 30B. You must also report the applicable data elements in sections 19 through 25 of this appendix for each test. If any separate, corresponding EPA test Method 2, 3A, or 4 test is conducted in order to convert a pollutant concentration to the units of the applicable emission standard given in Table 1 or Table 2 of this subpart or to convert pollutant concentration from wet to dry basis (or vice-versa), you must also report the applicable data elements in sections 26 through 31 of this appendix.

The applicable data elements in sections 17 through 31 of this appendix must be submitted separately, in XML format, along with the quarterly Compliance Report (for stack tests) or along with the electronic test results submitted to the ECMPS Client Tool (for CMS performance evaluations). The Electronic Reporting Tool (ERT) or an equivalent schema can be utilized to create this XML file. *Note:* Ideally, for all of the tests completed at a given facility in a particular calendar quarter, the applicable data elements in sections 17 through 31 of this appendix should be submitted together in one XML file. However, as shown in Table 8 to this subpart, the timelines for submitting stack test results and CMS performance evaluations are not identical. Therefore, for calendar quarters in which both types of tests are completed, it may not be possible to submit the applicable data elements for all of those tests in a single XML file; separate submittals may be necessary to meet the applicable reporting deadlines.

17.1 Part;
17.2 Subpart;
17.3 ORIS Code;
17.4 Facility Name;
17.5 Facility Address;
17.6 Facility City;
17.7 Facility County;
17.8 Facility State;
17.9 Facility Zip Code;
17.10 Facility Point of Contact;
17.11 Facility Contact Phone Number;
17.12 Facility Contact Email;

17.13 EPA Facility Registration System Number;
17.14 Source Classification Code;
17.15 State Facility ID;
17.16 Project Number;
17.17 Name of Test Company;
17.18 Test Company Address;
17.19 Test Company City;
17.20 Test Company State;
17.21 Test Company Zip Code;
17.22 Test Company Point of Contact;
17.23 Test Company Contact Phone Number;
17.24 Test Company Contact Email; and
17.25 Test Comment (optional, PM CPMS operating limits, if applicable).

18.0 *Source Information Data Elements.* You must report the following data elements, as applicable, for each source for which at least one test is included in the XML file:
18.1 Source ID (sampling location);
18.2 Stack (duct) Diameter (circular stack) (in.);
18.3 Equivalent Diameter (rectangular duct or stack) (in.);
18.4 Area of Stack;
18.5 Control Device Code; and
18.6 Control Device Description.

19.0 *Run-Level and Lab Data Elements for EPA test Methods 5, 5B, 5D, 26A, and 29.* You must report the appropriate Source ID (*i.e.,* Data Element 18.1) and the following data elements, as applicable, for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, or 26A. If your EGU is oil-fired and you use EPA test Method 26A to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant. When you use EPA test Method 29 to measure the individual HAP metals, total filterable HAP metals and total HAP metals, report only the run-level data elements (19.1, 19.3 through 19.30, and 19.38 through 19.41), and the point-level and lab data elements in sections 20 and 21 of this appendix:
19.1 Test Number;
19.2 Pollutant Name;
19.3 EPA Test Method;
19.4 Run Number;
19.5 Corresponding Reference Method(s), if applicable;
19.6 Corresponding Reference Method(s) Run Number, if applicable;
19.7 Number of Traverse Points;
19.8 Run Begin Date;
19.9 Run Start Time (clock time start);
19.10 Run End Date;
19.11 Run End Time (clock time end);
19.12 Barometric Pressure;
19.13 Static Pressure;
19.14 Cumulative Elapsed Sampling Time;
19.15 Percent O_2;
19.16 Percent CO_2;
19.17 Pitot Tube ID;
19.18 Pitot Tube Calibration Coefficient;
19.19 Nozzle Calibration Diameter;
19.20 F-Factor (F_d, F_w, or F_c);
19.21 Calibration Coefficient of Dry Gas Meter (Y);
19.22 Total Volume of Liquid Collected in Impingers and Silica Gel;
19.23 Percent Moisture—Actual;
19.24 Dry Molecular Weight of Stack Gas;
19.25 Wet Molecular Weight of Stack Gas;
19.26 Initial Reading of Dry Gas Meter Volume (dcf);
19.27 Final Reading of Dry Gas Meter Volume (dcf);
19.28 Stack Gas Velocity—fps;
19.29 Stack Gas Flow Rate—dscfm;
19.30 Type of Fuel;
19.31 Pollutant Mass Collected (value);
19.32 Pollutant Mass Unit of Measure;
19.33 Detection Limit Flag;
19.34 Pollutant Concentration;
19.35 Pollutant Concentration Unit of Measure;
19.36 Pollutant Emission Rate;
19.37 Pollutant Emission Rate Units of Measure (in units of the standard);
19.38 Compliance Limit Basis (heat input or electrical output);
19.39 Heat Input or Electrical Output Unit of Measure;
19.40 Process Parameter (value);
19.41 Process Parameter Unit of Measure;
19.42 Converted Concentration for PM CEMS only; and
19.43 Converted Concentration Units (units of correlation for PM CEMS).

20.0 *Point-Level Data Elements for EPA test Methods 5, 5B, 5D, 26A, & 29.* To link the point-level data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the following point-level data elements for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, 26A, or 29. Note that these data elements are required for all EPA test Method 29 applications, whether the method is being used to measure the total or individual HAP metals concentrations:
20.1 Traverse Point ID;
20.2 Stack Temperature;
20.3 Differential Pressure Reading (ΔP);
20.4 Orifice Pressure Reading (ΔH);
20.5 Dry Gas Meter Inlet Temperature;
20.6 Dry Gas Meter Outlet Temperature; and
20.7 Filter Temperature.

21.0 *Laboratory Results for EPA test Methods 29 Total or Individual Multiple HAP Metals.* If you use EPA test Method 29 and elect to comply with the total or individual HAP metals standards, you must report run-level data elements 19.1 through 19.34 in Section 19, and the point-level data elements in Section 20. To link the laboratory data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the results of the laboratory analyses. Regardless of whether you elect to comply with the total HAP metals standard or the individual HAP metals standard, you must report the front half catch, the back half catch, and the sum of the front and back half catches collected with EPA test Method 29 for each individual HAP metal and for the total HAP metals. The list of individual HAP metals is Antimony, Arsenic, Beryllium, Cadmium, Chromium, Cobalt, Lead, Manganese, Nickel, Selenium, and Mercury (if applicable). You must also calculate and report the pollutant emission rates(s) in relation to the standard(s) with which you have elected to comply and the units specified in Table 5 as follows:
21.1 Each Individual HAP metal total mass collected:
21.1.1 Pollutant Name;
21.1.2 Pollutant Mass Collected;
21.1.3 Pollutant Mass Units of Measure; and
21.1.4 Detection Limit Flag.
21.2 Each Individual HAP metal Front Half:
21.2.1 Pollutant Name;
21.2.2 Pollutant Mass Collected;
21.2.3 Pollutant Mass Units of Measure; and
21.2.4 Detection Limit Flag.
21.3 Each Individual HAP metal Back Half:
21.3.1 Pollutant Name;
21.3.2 Pollutant Mass Collected;
21.3.3 Pollutant Mass Units of Measure; and
21.3.4 Detection Limit Flag.
21.4 Each Individual HAP metal concentration:
21.4.1 Pollutant Name;
21.4.2 Pollutant Concentration; and
21.4.3 Pollutant Concentration Units of Measure.
21.5 Each Individual HAP metal emission rate in units of the standard:
21.5.1 Pollutant Name;
21.5.2 Pollutant Emission Rate; and
21.5.3 Pollutant Emission Rate Units of Measure.
21.6 Each Individual HAP metal emission rate in units of lbs/MMBTU or lbs/MW (per Table 5):
21.6.1 Pollutant Name;
21.6.2 Pollutant Emission Rate; and
21.6.3 Pollutant Emission Rate Units of Measure.
21.7 Total Filterable HAP metals mass collected:
21.7.1 Pollutant Name;
21.7.2 Pollutant Mass Collected;
21.7.3 Pollutant Mass Units of Measure; and
21.7.4 Detection Limit Flag.
21.8 Total Filterable HAP metals concentration:
21.8.1 Pollutant Name;
21.8.2 Pollutant Concentration; and
21.8.3 Pollutant Concentration Units of Measure.
21.9 Total Filterable HAP metals in units of lbs/MMBtu or lbs/MW (per Table 5):
21.9.1 Pollutant Name;
21.9.2 Pollutant Emission Rate; and
21.9.3 Pollutant Emission Rate Units of Measure.
21.10 Total HAP metals mass collected:
21.10.1 Pollutant Name;
21.10.2 Pollutant Mass Collected;
21.10.3 Pollutant Mass Units of Measure; and
21.10.4 Detection Limit Flag.
21.11 Total HAP metals concentration
21.11.1 Pollutant Name;
21.11.2 Pollutant Concentration; and
21.11.3 Pollutant Concentration Units of Measure.
21.12 Total HAP metals Emission Rate in Units of the Standard:

21.12.1 Pollutant Name;
21.12.2 Pollutant Emission Rate; and
21.12.3 Pollutant Emission Rate Units of Measure.
21.13 Total HAP metals Emission Rate in lbs/MMBtu or lbs/MW (per Table 5):
21.13.1 Pollutant Name;
21.13.2 Pollutant Emission Rate; and
21.13.3 Pollutant Emission Rate Units of Measure.
22.0 *Run-Level and Lab Data Elements for EPA test Method 26.* If you use EPA test Method 26, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each test run. If your EGU is oil-fired and you use EPA test Method 26 to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant:
22.1 Test Number;
22.2 Pollutant Name;
22.3 EPA Test Method;
22.4 Run Number;
22.5 Corresponding Reference Method(s), if applicable;
22.6 Corresponding Reference Method(s) Run Number, if applicable;
22.7 Number of Traverse Points;
22.8 Run Begin Date;
22.9 Run Start Time (clock start time);
22.10 Run End Date;
22.11 Run End Time (clock end time);
22.12 Barometric Pressure;
22.13 Cumulative Elapsed Sampling Time;
22.14 Calibration Coefficient of Dry Gas Meter (Y);
22.15 Initial Reading of Dry Gas Meter Volume (dcf);
22.16 Final Reading of Dry Gas Meter Volume (dcf);
22.17 Percent O_2;
22.18 Percent CO_2;
22.19 Type of Fuel;
22.20 F-Factor (F_d, F_w, or F_c);
22.21 Pollutant Mass Collected (value);
22.22 Pollutant Mass Units of Measure;
22.23 Detection Limit Flag;
22.24 Pollutant Concentration;
22.25 Pollutant Concentration Unit of Measure;
22.26 Compliance Limit Basis (heat input or electrical output);
22.27 Heat Input or Electrical Output Unit of Measure;
22.28 Process Parameter (value);
22.29 Process Parameter Unit of Measure;
22.30 Pollutant Emission Rate; and
22.31 Pollutant Emission Rate Units of Measure (in the units of the standard).
23.0 *Point-Level Data Elements for EPA test Method 26.* To link the point-level data in this section with the run-level data in the XML schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 22.3), Run Number (Data Element 22.4), and Run Begin Date (Data Element 22.8) from section 22 and the following point-level data elements for each run of each EPA test Method 26 test:
23.1 Traverse Point ID;
23.2 Filter Temperature; and
23.3 Dry Gas Meter Temperature.
24.0 *Run-Level Data for EPA test Method 30B.* You must report Source ID (*i.e.* Data Element 18.1) and the following run-level data elements for each EPA test Method 30B test run:
24.1 Test Number;
24.2 Pollutant Name;
24.3 EPA Test Method;
24.4 Run Number;
24.5 Corresponding Reference Method(s), if applicable;
24.6 Corresponding Reference Method(s) Run Number, if applicable;
24.7 Number of Traverse Points;
24.8 Run Begin Date;
24.9 Run Start Time (clock time start);
24.10 Run End Date;
24.11 Run End Time (clock time end);
24.12 Barometric Pressure;
24.13 Percent O_2;
24.14 Percent CO_2;
24.15 Cumulative Elapsed Sampling Time;
24.16 Calibration Coefficient of Dry Gas Meter Box A (Y);
24.17 Initial Reading of Dry Gas Meter Volume (A);
24.18 Final Reading of Dry Gas Meter Volume (A);
24.19 Calibration Coefficient of Dry Gas Meter Box B (Y);
24.20 Initial Reading of Dry Gas Meter Volume (B);
24.21 Final Reading of Dry Gas Meter Volume (B);
24.22 Gas Sample Volume Units of Measure;
24.23 Post-Run Leak Rate (A);
24.24 Post-Run Leak Check Vacuum (A);
24.25 Post-Run Leak Rate (B);
24.26 Post-Run Leak Check Vacuum (B);
24.27 Sorbent Trap ID (A);
24.28 Pollutant Mass Collected, Section 1 (A);
24.29 Pollutant Mass Collected, Section 2 (A);
24.30 Mass of Spike on Sorbent Trap A;
24.31 Total Pollutant Mass Trap A;
24.32 Sorbent Trap ID (B);
24.33 Pollutant Mass Collected, Section 1 (B);
24.34 Pollutant Mass Collected, Section 2 (B);
24.35 Mass of Spike on Sorbent Trap B;
24.36 Total Pollutant Mass Trap B;
24.37 Pollutant Mass Units of Measure;
24.38 Pollutant Average Concentration;
24.39 Pollutant Concentration Units of Measure;
24.40 Method Detection Limit;
24.41 Percent Spike Recovery;
24.42 Type of Fuel;
24.43 F-Factor (F_d, F_w, or F_c);
24.44 Compliance Limit Basis (heat input or electrical output);
24.45 Heat Input or Electrical Output Unit of Measure;
24.46 Process Parameter (value);
24.47 Process Parameter Unit of Measure;
24.48 Pollutant Emission Rate; and
24.49 Pollutant Emission Rate Unit of Measure (in the units of the standard).
25.0 *Point-Level Data Elements for EPA test Method 30B.* You must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 24.3), Run Number (Data Element 24.4), and Run Begin Date (Data Element 24.8) and the following point-level data elements for each run of each EPA test Method 30B test:
25.1 Traverse Point ID;
25.2 Dry Gas Meter Temperature (A);
25.3 Sample Flow Rate (A) (L/min);
25.4 Dry Gas Meter Temperature (B); and
25.5 Sample Flow Rate (B) (L/min).
26.0 *Pre-Run Data Elements for EPA test Methods 3A and 6C.* You must report the Source ID (*i.e.,* Data Element 18.1) and the following pre-run data elements for each SO_2 RATA using instrumental EPA test Method 6C, and for each instrumental EPA test Method 3A O_2 or CO_2 test that is performed to convert a pollutant concentration to the units of measure of the applicable emission unit of standard in Table 1 or 2 of this subpart:
26.1 Test Number;
26.2 EPA Test Method;
26.3 Calibration Gas Cylinder Analyte;
26.4 Cylinder Gas Units of Measure;
26.5 Date of Calibration;
26.6 Calibration Low-Level Gas Cylinder ID;
26.7 Calibration Low-Level Gas Concentration;
26.8 Calibration Low-Level Cylinder Expiration Date;
26.9 Calibration Mid-Level Gas Cylinder ID;
26.10 Calibration Mid-Level Gas Concentration;
26.11 Calibration Mid-Level Cylinder Expiration Date;
26.12 Calibration High-Level Gas Cylinder ID;
26.13 Calibration Span (High-Level) Gas Concentration;
26.14 Calibration High-Level Cylinder Expiration Date;
26.15 Low-Level Gas Response;
26.16 Low-Level Calibration Error;
26.17 Low-Level Alternate Performance Specification (APS) Flag;
26.18 Mid-Level Gas Response;
26.19 Mid-Level Calibration Error;
26.20 Mid-Level APS Flag;
26.21 High-Level Gas Response;
26.22 High-Level Calibration Error; and
26.23 High-Level APS Flag.
27.0 *Run-Level Data Elements for EPA test Methods 3A and 6C.* You must report the Source ID (*i.e.,* Data Element 18.1) and following run-level data elements for each run of each SO_2 RATA using instrumental EPA test Method 6C, and for each run of each corresponding instrumental EPA test Method 3A test that is performed to convert a pollutant concentration to the applicable emission unit of standard in Table 1 or 2 of this subpart:
27.1 Test Number;
27.2 Pollutant or Analyte Name;
27.3 EPA Test Method;
27.4 Run Number;
27.5 Corresponding Reference Method(s), if applicable;
27.6 Corresponding Reference Method(s) Run Number(s), if applicable;
27.7 Number of Traverse Points;
27.8 Run Begin Date;
27.9 Run Start Time (clock time start);
27.10 Run End Date;
27.11 Run End Time (clock time end);
27.12 Cumulative Elapsed Sampling Time;
27.13 Upscale (mid or high) Gas Level;

27.14 Pre-Run Low-Level Response;
27.15 Pre-Run Low-Level System Bias;
27.16 Pre-Run Low-Level Bias APS Flag;
27.17 Pre-Run Upscale (mid or high) Response;
27.18 Pre-Run Upscale (mid or high) System Bias;
27.19 Pre-Run Upscale (mid or high) Bias APS Flag;
27.20 Post-Run Low-Level Response;
27.21 Post-Run Low-Level System Bias;
27.22 Post-Run Low-Level Bias APS Flag;
27.23 Post-Run Low-Level Drift;
27.24 Post-Run Low-Level Drift APS Flag;
27.25 Post-Run Upscale (mid or high) Response;
27.26 Post-Run Upscale (mid or high) System Bias;
27.27 Post-Run Upscale (mid or high) System Bias APS Flag;
27.28 Post-Run Upscale (mid or high) Drift;
27.29 Post-Run Upscale (mid or high) Drift APS Flag;
27.30 Unadjusted Raw Emissions Average Concentration;
27.31 Calculated Average Concentration, Adjusted for Bias (C_{gas});
27.32 Concentration Units of Measure (Dry or wet);
27.33 Type of Fuel;
27.34 Process Parameter (value); and
27.35 Process Parameter Units of Measure.

28.0 *Run-Level Data Elements for EPA test Method 2.* When you make a separate determination of the stack gas flow rate using EPA test Method 2 separately, corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the stack gas flow rate, you must report the Source ID (*i.e.,* Data Element 18.1) and following run-level data elements for each EPA test Method 2 test run:
28.1 Test Number;
28.2 EPA Test Method;
28.3 Run Number;
28.4 Number of Traverse Points;
28.5 Run Begin Date;
28.6 Run Start Time (clock time start);
28.7 Run End Date;
28.8 Run End Time (clock time end);
28.9 Pitot Tube ID;
28.10 Pitot Tube Calibration Coefficient;
28.11 Barometric Pressure;
28.12 Static Pressure;
28.13 Percent O_2;
28.14 Percent CO_2;
28.15 Percent Moisture—actual;
28.16 Dry Molecular Weight of Stack Gas;
28.17 Wet Molecular Weight of Stack Gas;
28.18 Stack Gas Velocity—fps; and
28.19 Stack Gas Flow Rate—dscfm.

29.0 *Point-Level Data Elements for EPA test Method 2.* For each run of each separate EPA test Method 2 test, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 28.2), Run Number (Data Element 28.3), and Run Begin Date (Data Element 28.5) and the following point-level data elements:
29.1 Traverse Point ID;
29.2 Stack Temperature; and
29.3 Differential Pressure Reading (ΔP).

30.0 *Run-Level Data Elements for EPA test Method 4.* When you make a separate EPA test Method 4 determination of the stack gas moisture content corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the moisture content, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each EPA test Method 4 test run:
30.1 Test Number;
30.2 EPA Test Method;
30.3 Run Number;
30.4 Number of Traverse Points;
30.5 Run Begin Date;
30.6 Run Start Time (clock time start);
30.7 Run End Date;
30.8 Run End Time (clock time end);
30.9 Barometric Pressure;
30.10 Calibration Coefficient of Dry Gas Meter (Y);
30.11 Volume of Water Collected in Impingers and Silica Gel;
30.12 Percent Moisture-actual;
30.13 Initial Reading of Dry Gas Meter Volume (dcf);
30.14 Final Reading of Dry Gas Meter Volume (dcf); and
30.15 Dry Gas Meter Temperature (average).

31.0 *Other Information for Each Test or Test Series.* You must provide each test included in the XML data file described in this appendix with supporting documentation, in a PDF file submitted concurrently with the XML file, such that all the data required to be reported by 40 CFR 63.7(g) are provided. That supporting data include but are not limited to diagrams showing the location of the test site and the sampling points, laboratory report(s) including analytical calibrations, calibrations of source sampling equipment, calibration gas cylinder certificates, raw instrumental data, field data sheets, quality assurance data (*e.g.* field recovery spikes) and any required audit results and stack testers' credentials (if applicable). The applicable data elements in 40 CFR 63.10031(f)(6)(i) through (xii) of this section must be entered into ECMPS with each PDF submittal; the test number(s) (see 40 CFR 63.10031(f)(6)(xi)) must be included. The test number(s) must match the test number(s) in sections 19 through 31 of this appendix (as applicable).

[FR Doc. 2020–15950 Filed 9–8–20; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0747; FRL–10010–12–OAR]

RIN 2060–AU16

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action on the residual risk and technology review (RTR) conducted for the Miscellaneous Coating Manufacturing (MCM) source category regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address emissions during periods of startup, shutdown, and malfunction (SSM), including clarifying regulatory provisions for certain vent control bypasses, provisions for electronic reporting of performance test results, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; and provisions to conduct periodic performance testing of oxidizers used to reduce emissions of organic hazardous air pollutants (HAP).

DATES: This final rule is effective on August 14, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of August 14, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0747. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries will be accepted. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Angela Carey, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2187; fax number: (919) 541–0516; and email address: *carey.angela@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ANSI American National Standards Institute
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
HAP hazardous air pollutants(s)
HI hazard index
HQ hazard quotient
ICR Information Collection Request
IFR internal floating roof
km kilometer
LDAR leak detection and repair
MACT maximum achievable control technology
MCM miscellaneous coating manufacturing
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM particulate matter
POM polycyclic organic matter
ppmv parts per million by volume
ppmw parts per million by weight
PRD pressure relief device
REL reference exposure limit
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court the United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compounds

Background information. On September 4, 2019 (84 FR 46610), the EPA proposed revisions to the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (MCM NESHAP) facilities NESHAP in conjunction with our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* in the MCM Docket (Docket ID No. EPA–HQ–OAR–2018–0747). A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the MCM source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the MCM source category in our September 4, 2019, proposal?
III. What is included in this final rule?

A. What are the final rule amendments based on the risk review for the MCM source category?
B. What are the final rule amendments based on the technology review for the MCM source category?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the requirements for submission of notifications, reports, and performance test data to the EPA?
F. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the NESHAP for the MCM source category?
A. Residual Risk Review for the MCM Source Category
B. Technology Review for the MCM Source Category
C. SSM Provisions
D. Electronic Reporting Provisions
E. Other Technical Amendments
F. Ongoing Emissions Compliance Demonstrations
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS[1] codes
Miscellaneous Coating Manufacturing Industry.	3255, 3259

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program, links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by October 13, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or

processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)," no less frequently than every 8 years, pursuant to CAA section 112(d)(6).[1] Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[2] For more information on the statutory authority for this rule, see the proposal preamble (84 FR 46610, September 4, 2019) and the memorandum, *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* December 14, 2017, available in the docket for this rulemaking.

B. What is the MCM source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the MCM NESHAP on December 11, 2003 (68 FR 69185). The standards are codified at 40 CFR part 63, subpart HHHHH. The MCM industry consists of facilities that are engaged in their manufacture without regard to the particular end uses or consumers of such products. The manufacturing of these products may occur in any combination at any facility. The source category covered by this MACT standard currently includes 43 facilities.

The MCM source category includes the collection of equipment (*i.e.,* process vessels; storage tanks; components such as pumps, valves, and connections; wastewater tanks; heat exchangers; and transfer racks) that is used to manufacture coatings at a facility. MCM operations may also include certain cleaning operations. Coatings manufactured at MCM facilities are materials such as paints, inks, or adhesives that are intended to be applied to a substrate to form a protective, decorative, or functional layer (*e.g.,* an adhesive) and consist of a mixture of resins, pigments, solvents, and/or other additives. Coatings are produced by a manufacturing operation in which materials are blended, mixed, diluted, or otherwise formulated. Coatings do not include materials made in processes where a formulation component is synthesized by a chemical reaction or separation activity and then transferred to another vessel where it is formulated to produce a material used as a coating, where the synthesized or separated component is not stored prior to formulation.

The equipment controlled by the MCM NESHAP includes process vessels, storage tanks for feedstocks and products, equipment leak components (pumps, compressors, agitators, pressure relief devices (PRDs), sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems), wastewater tanks, heat exchangers, and transfer racks.

The current NESHAP regulates process vessels and storage tanks based on the volume of the process vessel or storage tank and the maximum true vapor pressure of the organic HAP processed or stored. Control requirements range from the use of tightly fitted lids on process vessels to also capturing and reducing organic HAP emissions through the use of add-on controls (*i.e.,* a flare, oxidizer, or condenser). For halogenated vent streams from process vessels and storage tanks, the use of a flare is prohibited, and a halogen reduction device (*i.e.,* an acid gas scrubber) is required after a combustion control device. For storage tanks, facilities may comply with the provisions in 40 CFR part 63, subpart HHHHH, by complying with the provisions in 40 CFR part 63, subpart WW.

The NESHAP regulates emissions from equipment leaks at existing sources by requiring compliance with leak inspection and repair provisions using sight, sound, and smell in 40 CFR part 63, subpart R, or alternatively, the leak detection and repair (LDAR) provisions in 40 CFR part 63, subpart TT or UU. New sources are required to comply with the LDAR provisions in 40 CFR part 63, subpart TT or UU.

The NESHAP regulates wastewater streams by requiring the use of fixed roofs on wastewater tanks, treating the wastewater (either on-site or off-site) as a hazardous waste under 40 CFR part 264, 265, or 266, or using enhanced biological treatment if the wastewater contains less than 50 parts per million by weight (ppmw) of partially soluble HAP. If the wastewater is treated as a hazardous waste under 40 CFR part 264, 265, or 266, it may be treated by steam stripping or incineration. These standards apply only to wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and loads greater than or equal to 750 pounds per year (lb/yr) at an existing source. For new sources, these standards apply only to wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater

[1] On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN* v. *EPA,* 955 F. 3d. 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

[2] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

than or equal to 1,600 ppmw and any partially soluble and soluble HAP load.

The NESHAP regulates transfer operations if the operation involves the bulk loading of coating products that contain 3.0 million gallons per year or more of HAP with a weighted average HAP partial pressure greater than or equal to 1.5 pounds per square inch, absolute. Regulated transfer operations are required to reduce emissions by using a closed vent system and a control device (other than a flare) to reduce emissions by at least 75 percent; using a closed vent system and a flare for a non-halogenated vent stream; or using a vapor balancing system. When a non-flare combustion device is used to control a halogenated vent stream, then a halogen reduction device must be used either before or after the combustion device. If used after the combustion device, the halogen reduction device must meet either a minimum 95-percent reduction or a maximum 0.45 kilograms per hour (kg/hr) emission rate of hydrogen halide or halogen. If used before the combustion device, the halogen reduction device must meet a maximum 0.45 kg/hr emission rate of hydrogen halide or halogen.

The NESHAP requires heat exchangers to meet the provisions of 40 CFR part 63, subpart F, 40 CFR 63.104. Section 63.104 requires the implementation of a LDAR or monitoring program for heat exchange systems, unless the system meets certain design and operation provisions, or it is a once-through system that meets certain National Pollution Discharge Elimination System (NPDES) permit provisions.

C. What changes did we propose for the MCM source category in our September 4, 2019, proposal?

On September 4, 2019, the EPA published a proposed rule in the **Federal Register** for the MCM NESHAP, 40 CFR part 63, subpart HHHHH, that took into consideration the RTR analyses. We proposed to find that after compliance with the current NESHAP (*i.e.,* MACT standards) the risks to public health from the source category are acceptable, and that additional emission controls are not necessary to provide an ample margin of safety. Based on our technology review, we did not identify any cost-effective developments in practices, processes, or control technologies for the source category. Accordingly, we proposed no changes to the existing emission control requirements in 40 CFR part 63, subpart HHHHH, based on the risk assessment or the technology review.

We proposed the following amendments to improve rule effectiveness, provide regulatory flexibility, and comply with a legal ruling:

- A new requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);
- revisions to the SSM provisions of the NESHAP to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners or operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- revisions to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions;
- language to add 40 CFR 63.8005(h) to clarify that any periods during which a control device for a process vessel is bypassed must be included in demonstrating compliance with the emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH;
- revisions to 40 CFR 63.8000(b)(2), which allows the opening of a safety device at any time conditions require it to avoid unsafe conditions, to clarify that such an opening to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h);
- removal of references to paragraph (d)(4) of the Occupational Safety and Health Administration (OSHA) Hazard Communication standard (29 CFR 1910.1200), which dealt with OSHA-defined carcinogens, and replacing that reference with a list of HAP that must be regarded as potentially carcinogenic based on EPA guidelines;
- a new requirement to fulfill performance testing and reestablish operating limits no less frequently than every 5 years for sources that are using add-on controls to demonstrate compliance, unless they are already required to perform periodic testing as a condition of renewing their title V operating permit; and
- to IBR alternative test methods and references to updated alternative test methods.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the MCM source category. This action also finalizes the changes to the NESHAP described in section II.C of this preamble, as proposed.

A. What are the final rule amendments based on the risk review for the MCM source category?

This section describes the final decisions for the MCM NESHAP (40 CFR part 63, subpart HHHHH) being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to this subpart based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, and that the NESHAP at 40 CFR part 63, subpart HHHHH, provides an ample margin of safety to protect public health, and that more stringent standards are not necessary to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not requiring additional emission controls under CAA section 112(f)(2) for this subpart in this action.

B. What are the final rule amendments based on the technology review for the MCM source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the MCM NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. Previously, the 2003 MCM NESHAP included exemptions for standards during SSM. As detailed in section IV.D

of the proposal preamble (84 FR 46610, September 4, 2019), the final rule removes the SSM exemptions (see 40 CFR 63.8000(a)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

Table 10 to subpart HHHHH of 40 CFR part 63 (General Provisions applicability table) is being revised to change the specification of the requirements that apply during periods of SSM. We eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemptions. The EPA also made other harmonizing changes to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemptions. We proposed to find that facilities in this source category can meet the applicable emission standards in the MCM NESHAP at all times, including periods of startup and shutdown, without additional standards or work practices. The EPA considered the requirements for control device bypasses and for safety devices that we are finalizing in this rule when proposing to find that the standards can be met at all times after the SSM provisions are revised. We received no information to cause us to change our conclusion; therefore, the EPA is finalizing the proposed determination that no additional standards are needed to address emissions during startup and shutdown periods. The legal rationale and detailed changes for startup and shutdown periods that we are finalizing here are set forth in the September 4, 2019, preamble to the proposed rule. See 84 FR 46629 through 46630.

Further, as proposed, the EPA is not including standards for malfunctions, except as related to the proposed revisions related to control device bypasses and for safety devices. As discussed in section IV.D of the September 4, 2019, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. See 84 FR 46629 through 46630. For this source category, we proposed at 40 CFR 63.8005(h) to provide a method to account for control device bypass periods (including malfunction periods) when evaluating compliance with the overall control efficiency requirements for process vessels in Table 1 to 40 CFR part 63 subpart HHHHH, and we solicited commenters to provide additional information.

We are revising the General Provisions table to 40 CFR part 63, subpart HHHHH, to eliminate requirements that include rule language providing an exemption for periods of SSM. Finally, we are revising as proposed the Deviation Notification Report and related records as they relate to malfunctions, as further described below. As discussed in detail in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.8000(a) that the standards apply at all times. Refer to section IV.D.1 of the proposal preamble for a detailed discussion of these amendments (84 FR 46629, September 4, 2019).

We are finalizing amendments to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions. Listed in 40 CFR 63.8000(f) are the referenced provisions in subparts SS, TT, and UU of 40 CFR part 63 that contain references to SSM periods that will no longer apply after the compliance date for these amendments. Listed in 40 CFR 63.8000(f)(10) through (22) are the paragraphs or phrases within the paragraphs that will not apply after the applicable compliance date for the amendments as a result of the final SSM revisions.

Because we are finalizing the revisions to remove the SSM provisions and require compliance at all times, we are also finalizing the amendment to add 40 CFR 63.8005(h) to account for bypass periods in determining compliance with the emission percent reduction provisions in Table 1 to 40 CFR part 63, subpart HHHHH, for process vessels. These amendments will apply to process vessels with closed vent systems and add-on controls that contain bypass lines that could divert a vent stream to the atmosphere. We are finalizing the revisions that owners or operators must measure and record during each semiannual compliance period the hours that the control device was bypassed and the source's total operating hours. They must use the overall control efficiency required in Table 1, the total operating hours, and the control efficiency of the control device to determine the allowable bypass hours during the semiannual compliance period using Equation 1 in 40 CFR 63.8005(h). These changes are required because SSM periods that may involve bypassing of the control device cannot be excluded and must now be included in determining compliance.

Because we are finalizing the revisions to remove the SSM provisions and require compliance at all times, we are also finalizing the revisions to 40 CFR 63.8000(b)(2) so that opening of a safety device to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). We are also finalizing the proposed revisions to revise 40 CFR 63.8080(c), which is the provision requiring a record of each time a safety device is opened, to add additional recordkeeping provisions consistent with those for other deviations. In the event a safety device is opened, the owners or operators will be required to comply with the general duty provision in 40 CFR 63.8000(a) to minimize emissions at all times, and to report and record information related to deviations as specified in 40 CFR 63.8075 and 63.8080, respectively, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h).

D. What other changes have been made to the NESHAP?

The EPA is amending 40 CFR 63.8055(b)(4), as proposed, to remove a reference to paragraph (d)(4) of the OSHA's Hazard Communication standard addressing OSHA-defined carcinogens. We are replacing the reference to carcinogens in 29 CFR 1910.1200(d)(4) with a new table, Table 11 to 40 CFR part 63, subpart HHHHH, that lists those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. We are including organic HAP in Table 11 to 40 CFR part 63, subpart HHHHH, if they were categorized in the *EPA's Prioritized Chronic Dose-Response Values for Screening Risk Assessments* (dated May 9, 2014) as a "human carcinogen," "probable human carcinogen," or "possible human carcinogen" according to *The Risk Assessment Guidelines of 1986* (EPA/600/8–87/045, August 1987), or as "carcinogenic to humans," "likely to be carcinogenic to humans," or with "suggestive evidence of carcinogenic potential" according to the *Guidelines for Carcinogen Risk Assessment* (EPA/630/P–03/001F, March 2005).

The EPA is making several additional revisions to 40 CFR part 63, subpart HHHHH, to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 2 of this preamble.

TABLE 2—SUMMARY OF EDITORIAL AND MINOR CORRECTIONS TO 40 CFR PART 63, SUBPART HHHHH

Provision	Revision
40 CFR 63.7985(d)(2)	Remove the word "future.".
40 CFR 63.7990(a)	Revise 40 CFR 63.7990(a) to refer to the affected source definition that is in 40 CFR 63.7990(b), and not in 40 CFR 63.7985(a).
40 CFR 63.8000(a)(1)	Revise the reference to "§§ 63.8005 through 63.8025" to "§§ 63.8005 through 63.8030.".
40 CFR 63.8050(c)(3)	Correcting a printing error related to a May 13, 2005, amendment (70 FR 25676) to paragraph (c)(3) that resulted in deleting paragraphs (c)(3)(i) through (iii).
40 CFR 63.8075(c)(1)	Clarify the paragraph to say §§ 63.8005 through 63.8030 include heat exchangers.
40 CFR 63.8075(d)	Change the first reference to paragraph (d)(2) to instead refer to paragraph (d)(1).
40 CFR 63.8075(d)(2)(ii)	Remove the word "initial.".
40 CFR 63.8090(b)	Clarify the sentence to provide that you are in compliance with the subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in the subpart.
40 CFR 63.8105, definition of "Process vessel vent"	The EPA is not finalizing the proposed change to the last sentence of the definition, which would have replaced the words "process vessel vent" with "§ 63.8075 vent.".
Table 7 to 40 CFR part 63, subpart HHHHH	Remove 2-Butanone (MEK) for Partially Soluble Hazardous Air Pollutants.
Table 8 to 40 CFR part 63, subpart HHHHH	Correct "FFFF" to "HHHHH.".
Table 10 to 40 CFR part 63, subpart HHHHH	Change proposed column 3 entry for the row corresponding to § 63.6(f)(1) from "Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e)." to "No. See § 63.8000(a).".
Table 10 to 40 CFR part 63, subpart HHHHH	Change proposed column 3 entry for the row corresponding to § 63.6(h)(1) from "Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e)." to "No. See § 63.8000(a).".

We are including in the final rule a requirement for facilities to conduct control device performance testing no less frequently than once every 5 years when using emission capture systems and add-on controls to demonstrate compliance. For facilities with title V permits that require comparable periodic testing prior to permit renewal, no additional testing is required, and we included provisions in the rule to allow facilities to harmonize the NESHAP testing schedule with a facility's current title V testing schedule.

E. What are the requirements for electronic submission of notifications, reports, and performance test data to the EPA?

The EPA is requiring owners or operators of MCM facilities to submit electronic copies of certain required notifications, semiannual reports, performance test reports, and performance evaluation reports, through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that certain performance test results be submitted using the Electronic Reporting Tool. For the semiannual compliance reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the template for this report is located on the CEDRI website.

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. For a more thorough discussion of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0747.

F. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on August 14, 2020.

For all of the provisions we are finalizing under CAA sections 112(d)(2) and (3), all affected source owners or operators must comply with all of the amendments no later than 3 years after the effective date of the final rule, or upon startup, whichever is later. As provided in CAA section 112(i), all new affected sources would comply with these provisions by the effective date of the final amendments to the MCM NESHAP, or upon startup, whichever is later.

All affected facilities would have to continue to meet the current provisions of 40 CFR part 63, subpart HHHHH, up to and no later than the applicable compliance date of the amended rule.

We are finalizing the amendments to the provisions for SSM by removing the exemptions from the emission limitations (*i.e.,* emission limits, operating limits, and work practice standards) during SSM periods and by removing the provision to develop and implement an SSM plan. We are also requiring that owners or operators take into account control device bypass periods, even if during SSM periods, when demonstrating compliance with the percent emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH.

For all affected sources that commence construction or reconstruction on or before September 4, 2019, we are providing 3 years after the effective date of the final rule (or upon startup, whichever is later) for owners or operators to comply with the provisions that have been amended to remove the exemption from the emission limitations during SSM periods, with the exception of the vacated SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1). We are

revising Table 10 to clarify that for all affected sources, these exemptions do not apply following the Court vacatur in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). For all affected sources that commenced construction or reconstruction after September 4, 2019, we are requiring that owners or operators comply with the amended provisions by the effective date of the final rule (or upon startup, whichever is later).

We are also adding a provision that notifications, performance test results, and semiannual compliance reports be submitted electronically, and that the semiannual compliance report be submitted electronically using a new template. We are requiring that all sources begin complying with the new electronic reporting provisions beginning no later than 3 years after the regulation's effective date.

The EPA selected these compliance dates based on experience with similar industries and the EPA's detailed justification for the selected compliance dates is included in the preamble to the proposed rule (84 FR 46634, September 4, 2019).

IV. What is the rationale for our final decisions and amendments for the MCM source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the MCM Source Category

1. What did we propose pursuant to CAA section 112(f) for the MCM source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 4, 2019, proposed rule for 40 CFR part 63, subpart HHHHH (84 FR 46610). The results of the risk assessment for the proposal are presented briefly below in Table 3 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the docket for this rulemaking.

Table 3 of this preamble provides a summary of the results of the inhalation risk assessment for the source category.

TABLE 3—MCM INHALATION RISK ASSESSMENT RESULTS [5]

Risk assessment	Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Population at increased risk of cancer ≥ 1-in-1 million	Annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ [4]
Source Category	43	6	3,700	0.002	0.4	2
Whole Facility	.....	20	50,100	0.006	2	.....

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the reference exposure limit (REL). When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value. The HQ shown here is for glycol ethers, for which there are no other available acute dose-response values.
[5] For this source category, it was determined that baseline allowable emissions are equal to baseline actual emissions and, therefore, the risk summaries are the same.

The results of the inhalation risk modeling using the source category emissions for both actual and allowable emissions, as shown in Table 3 of this preamble, indicate the estimated cancer maximum individual risk (MIR) is 6-in-1 million, with chromium (VI) compounds from process vents as the major contributor to the risk. The total estimated cancer incidence from this source category is 0.002 excess cancer cases per year, or one excess case in every 500 years. Approximately 3,700 people are estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted from the affected sources in this source category. The estimated maximum chronic noncancer TOSHI for the source category is 0.4 (respiratory), driven by emissions of acrylic acid from process vents. No one is exposed to TOSHI levels greater than 1 due to emissions from this source category.

The results of the inhalation risk modeling using whole facility emissions data, as shown in Table 3 of this preamble, indicate that the estimated MIR is 20-in-1 million with emissions of hydrazine from sources subject to other standards driving the risk. These include 40 CFR part 63 subparts FFFF (Miscellaneous Organic Chemicals Manufacturing NESHAP), H (Hazardous Organic NESHAP), and EEEE (Organic Liquids Distribution), which are not part of this source category. The total estimated whole facility cancer incidence is 0.006 excess cancer cases per year. Approximately 50,100 people are estimated to have cancer risks greater than or equal to 1-in-1 million. The estimated maximum chronic noncancer TOSHI is 2 (for the neurological target organ), driven by emissions of hydrogen cyanide from non-MCM source category emissions from carbon fiber production. Approximately 80 people are estimated to be exposed to noncancer hazard index (HI) levels greater than 1.

As shown in Table 3 of this preamble, for source category emissions, the highest acute HQ based on the reasonable worst-case scenario is 2, based on the REL for glycol ethers. This is the highest HQ that is outside facility boundaries. One facility is estimated to have an HQ greater than 1 based on the REL, which is the only available benchmark for glycol ethers.

Potential multipathway health risks under a fisher and farmer/gardener scenario were identified using a three-tier screening assessment of the HAP known to be persistent and bio-

accumulative in the environment (PB–HAP) emitted by facilities in this source category. For carcinogenic PB–HAP, one facility emits arsenic compounds, while two facilities emit polycyclic organic matter (POM). None of these emissions exceed a Tier 1 cancer screening value for arsenic or POM. For noncarcinogenic PB–HAP, one facility emits cadmium compounds and one facility emits mercury compounds. None of these emissions exceed a Tier 1 noncancer screening value for cadmium or mercury. Further analyses (*i.e.,* Tier 2 or 3 screens) were not performed. For lead compounds, we did not estimate any exceedances of the lead National Ambient Air Quality Standards (NAAQS).

A screening-level evaluation of the potential adverse environmental risk associated with emissions of the PB–HAP listed above, plus acid gases (hydrogen chloride is the only reported acid gas), indicated that no ecological benchmarks were exceeded. For lead compounds, we did not estimate any exceedances of the secondary lead NAAQS.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the MCM source category are acceptable (section IV.B.1 of the proposal preamble, 84 FR 46625, September 4, 2019).

We then considered whether 40 CFR part 63, subpart HHHHH, provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Related to risk, the baseline risks were low, and regardless of the availability of further control options, little risk reduction could be realized. As discussed further in section IV.B of this preamble, the only developments identified in the technology review were control options for inorganic HAP and organic HAP from process vessels. Because the baseline risks are being driven by inorganic HAP from process vessels, we evaluated a control option for inorganic HAP emissions from process vessels located at MCM facilities that would be similar to those included in 40 CFR part 63, subpart CCCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. Additionally, we evaluated increasing the control efficiency requirements for organic HAP emissions from process vessels. The process vessel options did not result in a decrease to the MIR or to the maximum chronic noncancer TOSHI because the MIR facility already had controls in place. However, there was a reduction seen in the population exposed to a cancer risk of 1-in-1 million from 3,700 to 1,900 due to emissions reductions at other facilities. But, as described in section IV.C of the proposal preamble (84 FR 46626, September 4, 2019), we determined that these options were not cost effective. Therefore, given the low baseline risks and lack of options for further risk reductions, we proposed that additional emission controls for this source category are not necessary to provide an ample margin of safety (see section IV.B.2 of the proposal preamble, 84 FR 46626, September 4, 2019).

2. How did the risk review change for the MCM Source Category?

We have not changed any aspect of the risk assessment for the MCM source category as a result of public comments received on the September 4, 2019, proposal.

3. What key comments did we receive on the risk review, and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination is that no revisions were warranted under CAA section 112(f)(2) for the source category. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, one commenter stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source category assessed, and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes are needed to the risk assessment. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* available in the docket for this rulemaking.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on the maximum individual risk (MIR) of approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the MCM source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, we are not revising this subpart to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the MCM Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the MCM source category?

Sources of HAP emissions regulated by the MCM NESHAP are process vessels, storage tanks, transfer racks, equipment leaks, wastewater streams, and heat exchange systems. MCM processes occur as batch operations, which involve intermittent or discontinuous feed of raw materials into equipment, and generally involve emptying of the equipment after the operation ceases and prior to beginning a new operation.

For process vessels, we evaluated two options that could be potentially considered technology developments under CAA section 112(d)(6). In the first option, we considered increasing the control efficiency requirement for process vessels at existing sources to

match the control requirement for new sources, which would increase the control efficiency for organic HAP with a vapor pressure equal to or greater than 0.6 kilopascals from 75 percent to 95 percent. We consider this option to be a new development because several facilities have controlled all process vessels with thermal oxidizers to comply with the NESHAP.

We estimated the costs of installing a thermal oxidizer on the six plants in the MCM source category that currently do not have a thermal oxidizer installed on process vessels. The costs were estimated using the *EPA Air Pollution Control Cost Manual* cost spreadsheet for thermal oxidizers [3] and the process vent flow rate from the National Emissions Inventory (NEI) or the facility operating permit. The estimated cost effectiveness for these facilities ranged from $20,000 per ton HAP removed to $150,000 per ton HAP removed.

The second option for process vessels that we considered was to require controls to limit particulate matter (PM) HAP emissions when dry materials (*e.g.,* pigments) containing inorganic HAP are added to the process vessel. We considered provisions that would be similar to those included in 40 CFR part 63, subpart CCCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. This option would reflect the fact that several facilities subject to 40 CFR part 63, subpart HHHHH, have process vessels controlled with fabric filters when dry materials are being added.

We estimated costs for both a fabric filter baghouse and a cartridge filter type of particulate control with a flow rate of 1,000 cubic feet per minute, plus 150 feet of flexible duct to capture the fugitive PM when dry matter is being added to the mixing vessel. The estimated cost effectiveness for this option ranged from $310,000 to $2,100,000 per ton of particulate HAP reduced. We also evaluated whether pigments could be added in a wetted or paste form, but not all pigments are available or can be used in wetted or paste form.

The EPA did not find the control technology development options considered for process vessels in this technology review to be cost effective or, in some cases, technologically feasible. Consequently, the EPA proposed that it is not necessary to amend the standards for process vessels under the technology review.

[3] *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.*

The MCM NESHAP requires existing sources to comply with the equipment leaks provisions in 40 CFR part 63, subpart R, NESHAP for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations); subpart TT, NESHAP for Equipment Leaks, Control Level 1; or subpart UU, NESHAP for Equipment Leaks, Control Level 2. New sources must comply with the provisions of subpart UU or TT. Based on developments in other similar source categories, we identified as a technology alternative to the current standard a more stringent provision for existing sources that would eliminate sensory monitoring and require instrument monitoring with lower leak definitions than specified in 40 CFR part 63, subpart TT. For this alternative, we estimated the incremental emission reductions and cost effectiveness of employing instrument monitoring (EPA Method 21) with an equipment leak defined as instrument readings of 500 parts per million by volume (ppmv) for valves, 2,000 ppmv for pumps, and 500 ppmv for connectors. We estimated the costs of requiring instrument monitoring with more stringent leak definitions for four model plants with 25, 50, 100, or 200 process vessels. The estimated cost effectiveness for these model plants ranged from $107,000 per ton HAP removed to $22,000 per ton HAP removed for the smallest to largest model plant, and these values are higher than organic HAP cost-effectiveness values that we historically have considered reasonable. The EPA did not find the leak detection instrument monitoring option that was evaluated to be cost effective. Consequently, the EPA proposed that it was not necessary to amend the standards for equipment leaks under the technology review.

The MCM NESHAP regulates wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and load greater than or equal to 750 lb/yr at existing sources, or that contain greater than or equal to 1,600 ppmw and any partially soluble and soluble HAP load at new sources. Wastewater tanks used to store regulated wastewater streams must have a fixed roof, which may have openings necessary for proper venting of the tank, such as a pressure/vacuum vent or j-pipe vent. Regulated wastewater streams must be conveyed using hard piping and treated as a hazardous waste in accordance with 40 CFR part 264, 265, or 266 either on-site or off-site. Alternatively, if the wastewater contains less than 50 ppmw of partially soluble HAP, it may be treated in an enhanced biological treatment system that is located either on-site or off-site.

Because our technology review identified no developments in practices, processes, or controls for reducing wastewater emissions at MCM facilities, we evaluated developments in other industries with wastewater streams that contain organic HAP. We reviewed three options that were considered in other industry technology reviews for their applicability to the MCM wastewater streams. These options were:

(1) Requiring wastewater drain and tank controls at facilities.

(2) Requiring specific performance parameters (minimum fraction biodegraded, f_{bio}) for an enhanced biological unit beyond those required in the Benzene NESHAP.

(3) Requiring wastewater streams with a volatile organic compound (VOC) content of 750 ppmw or higher to be treated by steam stripping prior to any other treatment process for facilities with high organic loading rates (*i.e.,* facilities with total annualized benzene quantity of 10 megagrams per year or more).

The EPA did not find any of the three wastewater stream control options evaluated to be cost effective. Consequently, the EPA proposed that it was not necessary to amend the standards for wastewater streams under the technology review.

The EPA did not identify in our technology review any developments in practices, processes, and control technologies for storage tanks, transfer operations (*i.e.,* bulk loading) of coating products, or heat exchange systems that were not already considered in the development of the original MACT.

Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coating Manufacturing Source Category,* available in the docket to this action.

2. How did the technology review change for the MCM source category?

We are making no changes to the conclusions of the technology review and are finalizing the results of the technology review for the MCM source category as proposed.

3. What key comments did we receive on the technology review, and what are our responses?

Comment: Some of the commenters supported the EPA's proposed

determination that no changes to the MCM NESHAP were needed based on the technology review.

However, one commenter argued that the standard should be strengthened to reduce HAP emissions. The commenter argued that the EPA should establish a standard of zero allowed leaks to prohibit all uncontrolled releases, or to establish more stringent standards based on the latest advancements in LDAR. The commenter also argued that the EPA should establish more stringent standards for HAP metals based on the use of fabric filters when dry materials are added to process vessels, as in the Paints and Allied Products Manufacturing rule for area sources. Finally, the commenter argued that the EPA should establish standards for storage vessels based on internal floating roofs (IFR) or the use of closed vent systems and recovery or destruction devices. The commenter argued that CAA section 112(d)(6) does not allow the EPA to use cost as a factor in deciding whether more stringent standards should be adopted.

Response: In this technology review, we specifically looked for developments in practices, processes, and controls, including improvements in previously considered control technologies, and concluded there were no cost-effective developments applicable to this source category. The comment suggesting additional or more stringent controls be imposed has not provided data to support a revision to the proposed technology review; for this reason, we are adopting no changes to the NESHAP under the technology review.

With respect to the role of cost in our decisions under the technology review, we note that courts have not required the EPA to demonstrate that a technology is "cost-prohibitive" in order not to require adopting a new technology under CAA section 112(d)(6); a simple finding that a control is not cost effective is enough. See *Association of Battery Recyclers, et al.* v. *EPA,* et al., 716 F.3d 667, 673–74 (D.C. Cir. 2015) (approving the EPA's consideration of cost as a factor in its 42 U.S.C. 7412(d)(6) decision-making and the EPA's reliance on cost effectiveness as a factor in its standard-setting).

The option to require controls to limit PM HAP emissions from process vessels in which dry materials containing inorganic HAP are added to the process vessel was considered during the proposal for this rule. As stated in the MCM technology review memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Process Vessels, Storage Tanks, Equipment Leaks, Wastewater Streams, Transfer Operations, and Heat Exchange Systems Located in the Miscellaneous Coating Manufacturing Source Category* (Docket Item No. EPA–HQ–OAR–2018–0747–0033), we reviewed the permits for the 12 facilities subject to 40 CFR part 63, subpart HHHHH, for which the 2014 NEI included emissions of particulate HAP and found that the permits for all but one of the facilities confirmed that some type of particulate control was already fitted on the process vessels. These controls included baghouse fabric filters, cartridge filters, and wet scrubbers, and we proposed that it was not cost effective to require any additional PM controls.

Also, as described in the MCM technology review memorandum, we evaluated installing an IFR, external floating roof, closed vent system to an emission control device, vapor balancing, and considered maximum total vapor pressure thresholds; however, we did not identify any control technology development options for storage tanks to be cost effective.

Finally, in the MCM technology review memorandum, we concluded that more stringent leak definitions for pumps, valves, and connectors using EPA Method 21 equipment leak monitoring were not cost effective for this source category.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the preamble to the proposed rule (84 FR 46626, September 4, 2019) and in the comment responses above in section IV.B.3 of this preamble, and the response to comment document, we are making no changes and are finalizing the results of the technology review as proposed.

C. SSM Provisions

1. What did we propose?

In the September 4, 2019, action, we proposed amendments to the MCM NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 46629, September 4, 2019).

We proposed amendments to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions. We proposed 40 CFR 63.8000(f) that lists the referenced provisions, including individual paragraphs or phrases, in subparts SS, TT, and UU of 40 CFR part 63 that contain references to SSM periods that will no longer apply after the compliance date for the final amendments as a result of the final SSM revisions.

Because we proposed to remove the SSM provisions and require compliance at all times, we proposed to amend 40 CFR 63.8000(c) to account for bypass periods in determining compliance with the emission percent reduction provisions in Table 1 to 40 CFR part 63, subpart HHHHH, for process vessels. These amendments apply to process vessels with closed vent systems and add-on controls that contain bypass lines that could divert a vent stream to the atmosphere. We proposed that owners or operators must measure and record during each semiannual compliance period the hours that the control device was bypassed and the source's total operating hours. They must then use the overall control efficiency required in Table 1, the total operating hours, and the control efficiency of the control device to determine the allowable bypass hours during the semiannual compliance period using proposed Equation 1 in 40 CFR 63.8005(h). These changes are required because SSM periods that may involve bypassing of the control device cannot be excluded and must now be included in determining compliance.

Because we proposed to remove the SSM provisions and require compliance at all times, we proposed to revise 40 CFR 63.8000(b)(2) so that opening of a safety device to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). We also proposed to revise 40 CFR 63.8080(c), which is the provision to keep a record of each time a safety device is opened, to add additional recordkeeping provisions consistent with those for other deviations. As a result of these proposed changes, the opening of a safety device would be considered a deviation from the emission limits for sources using closed vent systems and add-on control devices to comply with the emission limitations in 40 CFR part 63, subpart HHHHH, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). In the event a safety device is opened, the owners or operators would be required to comply with the general duty provision in 40 CFR 63.8000(a) to minimize emissions at all times and to report and record information related to deviations as specified in 40 CFR 63.8075 and 63.8080, respectively, unless it is a bypass of a control for a process vessel

and accounted for as specified in 40 CFR 63.8005(h).

2. What changed since proposal?

We are finalizing the SSM provisions as proposed with no changes (84 FR 46629, September 4, 2019).

We are also revising the bypass provisions to allow the use of bypass valve or damper position indicators to determine the time and duration of possible bypasses as an alternative to the proposed requirement to use a flow indicator. In the final rule, we are providing the following options to comply with the bypass monitoring requirements: (1) Use a flow indicator that provides a continuous reading of flow and no flow, (2) use valve position indicator or bypass damper indicator that provides a continuous reading of damper position, or (3) secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. For flow indicators, facilities will have to perform a flow meter verification check annually. The annual verification check must be performed for at least two points, one at the instrument's zero and the other at the instrument's span. For valve position indicators, facilities must ensure that any bypass line valve or damper is in the closed position through continuous monitoring of valve position when the control device is in operation. The monitoring system must be inspected semiannually to verify that the monitor will accurately indicate valve position. For car-seal or lock-and-key type configurations, facilities must ensure that any seal or closure mechanism is maintained in the non-diverting position and the vent stream is not diverted through a bypass line. The visual inspections on the seal or closure mechanism must be completed at least once every month.

We are finalizing the provisions related to safety device openings in 40 CFR 63.8000(b)(2) and 63.8080(c) as proposed with no changes (84 FR 46632, September 4, 2019).

We have corrected an error in the proposed amendatory language at 40 CFR 63.7995(e) (84 FR 46640). In the proposal, we indicated that sources that began construction or reconstruction on or before the publication of the final rule in the **Federal Register** are given 3 years to comply with the provisions listed in 40 CFR 63.7995(e)(1) through (5). That was incorrect and the text should have indicated that those that began construction or reconstruction on or before the proposal publication date of September 4, 2019, have 3 years to comply with the provisions listed in 40 CFR 63.7995(e)(1) to (5).

3. What key comments did we receive and what are our responses?

Comment: One commenter requested specific SSM provisions for PRDs, flares, and maintenance venting. The commenter requested that the opening of a safety device be allowed if it is a PRD meeting the requirements in 40 CFR part 63, subpart TT (40 CFR 63.1010 or 63.1011) or UU (40 CFR 63.1029 or 63.1030), and suggested certain work practices are followed that were specified by the commenter. The commenter also requested that certain types of safety devices and PRDs be exempt from the requirements for safety devices.

The commenter requested that the definition of "process vessel vent" be revised to exclude "maintenance vents after the equipment has been washed or purged in accordance with site maintenance practices to minimize, to the extent possible, emissions of HAP." The commenter also suggested as a second option, if the EPA decides to regulate HAP emissions from maintenance activities associated with process vessel vents, that the EPA should add work practice standards in place of emission limitations, consistent with the language in the Petroleum Refinery MACT, 40 CFR 63.643(c), and the proposed changes to the Ethylene Production MACT, 40 CFR 63.1103(e)(5).

The commenter requested that, consistent with the Column 3 note on 40 CFR 63.6(h)(2) through (9) in Table 10 to 40 CFR part 63, subpart HHHHH, the EPA should clarify the "Yes" language on 40 CFR 63.6(h)(1) by adding the italicized language as follows: "Yes, before the compliance date specified in § 63.7995(e), *specifically for flares subject to Method 22 observations that are required as part of a compliance assessment.* No, on or after the compliance date specified in § 63.7995(e)."

Response: We are making none of the suggested changes because they are not necessary. There is a low likelihood of PRDs or flares being used in this source category because operations are conducted at ambient conditions (*i.e.,* process overpressures are less likely because operations are conducted at lower temperature and pressures) and facilities typically comply with the standards using thermal oxidizers or condensers. Additionally, the bypass provisions apply to all SSM events, including events associated with maintenance venting, and no examples were provided to the EPA to support adding provisions for maintenance venting in the MCM source category.

4. What is the rationale for our final approach for the SSM provisions?

We evaluated all comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that these amendments to the SSM provisions for the MCM NESHAP remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM provisions is in the preamble to the proposed rule (84 FR 46629, September 4, 2019). Therefore, we are finalizing our approach for the SSM provisions as proposed.

D. Electronic Reporting Provisions

1. What did we propose?

In the September 4, 2019, document, we proposed to require owners or operators of MCM sources to submit electronic copies of notifications, reports, and performance tests through the EPA's CDX, using the CEDRI. These include the initial notifications required in 40 CFR 63.9(b) and 63.8070(b), the NOCS required in 40 CFR 63.9(h) and 63.8075(d), the performance test report required in 40 CFR 63.8075(f), the performance evaluation report required in 40 CFR 63.8075(g), and the semiannual reports required in 40 CFR 63.8075(b) and (c). A description of the electronic submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* August 8, 2018, available in the docket for this rulemaking. The proposed rule requirements would replace the current rule requirements to submit the notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. The proposed rule requirement would not affect submittals required by state air agencies. The proposed compliance schedule language in 40 CFR 63.8075(h) for submission of initial compliance reports, NOCS reports, and compliance reports would have provided 3 years after the final rule is published to begin electronic reporting.

2. What changed since proposal?

We are finalizing the electronic reporting provisions as proposed with no changes (84 FR 46632, September 4, 2019).

We are revising the proposed electronic reporting template to incorporate changes identified in the

public comments and described completely in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* available in the docket for this rulemaking.

3. What key comments did we receive and what are our responses?

Comment: The EPA received comments that identified several corrections and additions to the draft CEDRI template and described them in detail in their comment letter. These changes to the draft CEDRI template are described completely in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* available in the docket for this rulemaking.

Response: The EPA has evaluated these comments and has made the appropriate corrections to the CEDRI template as described in *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* available in the docket for this rulemaking.

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the preamble to the proposed rules (84 FR 46632, September 4, 2019), and in the comment responses above in section IV.D.3 of this preamble, and in the response to comment document, we are finalizing the electronic reporting provisions for the MCM NESHAP, as proposed. We are revising the CEDRI reporting template as appropriate to incorporate the corrections and additions identified in the public comments.

E. Other Technical Amendments

1. What did we propose?

The EPA proposed to amend 40 CFR 63.8055(b)(4) to remove reference to paragraph (d)(4) of the OSHA's Hazard Communication standard, which dealt with OSHA-defined carcinogens. We proposed to replace these references to carcinogens in 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 11 to 40 CFR part 63, subpart HHHHH) of those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. We also proposed additional technical and editorial corrections that were listed in Table 4 of the proposal preamble.

2. What changed since proposal?

We are finalizing the technical amendments as proposed with no changes (84 FR 46633, September 4, 2019).

3. What key comments did we receive and what are our responses?

We received comments supporting the addition of Table 11 to 40 CFR part 63, subpart HHHHH. We also received comments indicating several additional technical and editorial corrections that are detailed in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing,* available in the docket for this rulemaking.

4. What is the rationale for our final approach for the other technical amendments?

For the reasons explained in the preamble to the proposed rules (84 FR 46633, September 4, 2019), in the comment responses above in section IV.E.3 of this preamble, and in the response to comment document, we are finalizing the other technical amendments for the MCM NESHAP, as proposed. The proposed technical amendments, to include the new Table 11, are being finalized in this action. The editorial corrections proposed in Table 4 of the proposal preamble are being finalized, with edits based on responses from commenters. These edits are shown in Table 2 of this preamble.

F. Ongoing Emissions Compliance Demonstrations

1. What did we propose?

We proposed to require owners or operators of facilities complying with the standards using a closed vent system and add-on controls to control emissions to perform periodic testing to confirm the performance of the add-on control device. We proposed to require owners or operators that are not already on a 5-year testing schedule to conduct the first of the periodic performance tests within 3 years of the effective date of the revised standards. Afterward, the owners or operators would conduct periodic testing before they renew their operating permits, but no longer than 5 years following the previous performance test. Additionally, owners or operators of facilities that have already tested as a condition of their permit within the last 2 years before the effective date would be permitted to maintain their current 5-year schedule and not be required to move up the date of the next test to the 3-year date specified above.

2. What changed since proposal?

We are finalizing the periodic performance testing and ongoing compliance demonstration provisions as proposed with no changes (84 FR 46634, September 4, 2019).

3. What key comments did we receive and what are our responses?

Comment: The EPA received comments that performance testing should not be required except when the facility has a change in operations, or where the change is not considered to be within the previously established worst-case conditions as specified in 40 CFR 63.8005(d)(1)(iv). The EPA also received comments that periodic performance testing should only be required for thermal oxidizers and should not be required for carbon adsorbers or for condensers, and that the EPA should not eliminate design evaluations of small control devices. See 40 CFR 63.8000(d)(2). The commenters argued that testing small control devices is often impractical (for example, once-through carbon adsorption) and needless where the performance (such as for condensers) can be predicted with a high degree of certainty.

Response: We disagree that performance tests should only be required when the facility has a change in operations. As explained in the preamble to the proposed rule, periodic performance tests help identify potential degradation of the add-on control device over time and ensure the control device remains effective, reducing the potential for acute emissions episodes or noncompliance. Also as explained in the preamble to the proposed rule, many facilities using add-on controls to demonstrate compliance with the NESHAP are currently required to conduct performance tests every 5 years as a condition for renewing their title V operating permit. The requirement to conduct testing every 5 years also eliminates uncertainty of determining whether a change in facility operations should trigger a new performance test. Further, removing the design evaluation for small control devices will not affect facilities using condensers because they may still comply by meeting the condenser outlet temperature requirements specified in Table 1 to 40 CFR part 63, subpart HHHHH. We do not expect many facilities to be controlling with carbon adsorbers, and, therefore, we are not exempting carbon adsorbers from these requirements.

The comments and responses on the proposed performance testing requirements are detailed in the

Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing, available in the docket for this rulemaking.

4. What is the rationale for our final approach for the ongoing compliance demonstrations?

For the reasons explained in the preamble to the proposed rules (84 FR 46634, September 4, 2019) and in the comment responses above in section IV.F.3 of this preamble and the response to comment document, we are finalizing the periodic testing provisions for the MCM NESHAP, as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected sources?

Currently, 43 major sources subject to the MCM NESHAP are operating in the United States. The affected source under the NESHAP is the facility-wide collection of equipment used to manufacture coatings and includes all process vessels; storage tanks for feedstocks and products; components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks; transfer racks; and cleaning operations. A coating is defined as material such as paint, ink, or adhesive that is intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation where materials are blended, mixed, diluted, or otherwise formulated.

B. What are the air quality impacts?

At the current level of control, estimated emissions of volatile organic HAP from the MCM source category are approximately 405 tpy.

The final amendments require that all 43 major sources in the MCM source category comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that will occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

Indirect or secondary air emissions impacts are impacts that will result from the increased electricity usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The amendments will have no effect on the energy needs of the affected facilities and will, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that to comply with the final amendments, each facility in the MCM source category will experience increased reporting and recordkeeping costs. The recordkeeping and reporting costs are presented in section VI.C of this preamble. The costs include time to read and understand the rule amendments. Costs associated with elimination of the SSM exemptions were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the provision to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports.

We are also finalizing a provision for performance testing no less frequently than every 5 years for sources in the MCM source category using add-on controls to demonstrate compliance. We estimate that 12 of the facilities subject to the MCM NESHAP and using add-on control devices will incur costs to conduct control device performance testing because they are not required by their permits to conduct testing every 5 years. This total does not include facilities in the MCM source category that have add-on controls and are currently required to perform periodic performance testing as a condition of their state operating permit. The cost for a facility to conduct a destruction or removal efficiency performance test using EPA Method 25 or 25A is estimated to be about $19,000. The total cost for all 12 facilities to test their add-on control devices in a single year, plus one facility completing a retest to account for 5 percent of control devices failing to pass the first test, will be $247,000. The total annualized testing cost, including retests, is approximately $57,000 per year at an interest rate of 5.25 percent and an additional $6,000 in reporting costs per facility in the year in which the test occurs for the MCM source category. For further information on the potential costs, see the cost tables in the memoranda, *Estimated Costs/Impacts 40 CFR part 63 Subpart HHHHH Monitoring Review Revisions,* May 2019, and the *Economic Impact and Small Business Screening Assessments for Proposed Amendments to National Emission Standards for the Hazardous Air Pollutants for Miscellaneous Coating Manufacturing Facilities (Subpart HHHHH),* in the MCM Docket.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision-makers about the potential economic consequences of a regulatory action. For the final rule, the EPA estimated the cost of becoming familiar with the rule and re-evaluating previously developed SSM record systems and performing periodic emissions testing at certain facilities with add-on controls that are not already required to perform testing. To assess the maximum potential impact, the largest cost expected to be experienced in any 1 year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the MCM NESHAP, the 2019 equivalent annualized value (in 2018$) of the costs over the period 2020–2026 is $66,000, assuming a 3-percent discount rate and $73,000 assuming a 7-percent discount rate. The 43 affected facilities are owned by 27 different parent companies, and the total costs associated with the final amendments range from 0.000005 to 0.025 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Two of the facilities potentially affected by the final revisions to the MCM NESHAP are small entities. However, the costs associated with the final amendments for these two affected small entities range from 0.002 to 0.025 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these final amendments.

More information and details of this analysis are provided in the technical document titled *Economic Impact and Small Business Screening Assessments for Proposed Amendments to the National Emission Standards for*

Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (Subpart HHHHH), available in the MCM Docket.

E. What are the benefits?

As stated above in section V.B of this preamble, we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption.

Because these final amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in volatile organic HAP from this rule.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, during the proposal, we performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risk from the MCM source category across different demographic groups within the populations living near facilities.

The results of the demographic analysis are summarized in Table 4 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities. These results have not changed since the proposal.

TABLE 4—MCM DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to MCM	Population with chronic HI above 1 due to MCM
Total Population	371,746,049	3,665	0
White and Minority by Percent			
White	62	64	0
Minority	38	36	0
Minority by Percent			
African American	12	32	0
Native American	0.8	0.05	0
Hispanic or Latino (includes White and nonwhite)	18	2	0
Other and Multiracial	7	2	0
Income by Percent			
Below Poverty Level	14	29	0
Above Poverty Level	86	71	0
Education by Percent			
Over 25 and without High School Diploma	14	19	0
Over 25 and with a High School Diploma	86	81	0
Linguistically Isolated by Percent			
Linguistically Isolated	6	1	0

The results of the MCM source category demographic analysis indicate that emissions from the source category expose approximately 3,700 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in each demographic group (except for African American, Below Poverty Level, Hispanic or Latino, and Above Poverty Level) are similar to (within 5 percent of) their respective nationwide percentages. The African American and Below Poverty Level demographic groups are greater than their respective nationwide percentages, while the Hispanic or Latino (includes White and nonwhite) and Above Poverty Level are lower than their respective nationwide percentages.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Facilities,* available in the docket for this rulemaking.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in

the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the docket for this rulemaking.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule will be submitted for approval to OMB under the PRA. The information collection request (ICR) document that the EPA prepared has been assigned EPA ICR number 2115.07. You can find a copy of the ICR in the MCM Docket (Docket ID No. EPA–HQ–OAR–2018–0747), and it is briefly summarized here.

The EPA is finalizing revisions to the SSM provisions of the rule, requiring periodic testing of control devices, and requiring the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHH.

Respondents/affected entities: Facilities manufacturing surface coatings.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHH).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 43 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 175, in year 2 is 46, and in year 3 is 85.

Total estimated burden: The average annual burden of the final amendments to the 43 MCM facilities over the 3 years is estimated to be 565 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 116 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost of the final rule amendments to the MCM facilities is $65,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and operation and maintenance costs are $82,000. The total average annual Agency cost of the proposed amendments over the first 3 years after the amendments are final is estimated to be $5,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The Agency has determined that two of the facilities potentially affected by the final revisions to the MCM NESHAP are small entities and may experience an impact of 0.002 to 0.025 percent of annual sales revenues per ultimate owner. Details of this analysis are presented in section V.D of this preamble and additional detail is provided in the economic impact memoranda associated with this action. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that will be affected by this action (MCM). Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A, III.C, and IV.A of this preamble and are further documented in the *Miscellaneous Coating Manufacturing Risk Assessment Report,* in the MCM Docket.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Therefore, the EPA conducted searches for the MCM NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 21, 22, 24, 25, 25A, 25D, 26, 26A, and 29 of 40 CFR part 60, appendix A; 301, 305, 311, 316, and 320 of 40 CFR part 63, appendix A; 624, 625, 1624, 1625, 1666, and 1671 of 40 CFR part 136, appendix A; and 8260, 8260B (SW–846), 8270, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW–846 third edition. During the EPA's

VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 21, 22, 25D, 305, 316, 625, 1624, 1625, 1666, 1671, 8260, 8260B (SW–846), and 8270. The following VCS were identified as acceptable alternatives to the EPA test methods for the purpose of this rule.

The EPA is including in the final rule the VCS ANSI/ASME PTC 19–10–1981 Part 10 (2010), "Flue and Exhaust Gas Analyses," as an acceptable alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures. This method is used to quantify the oxygen and carbon dioxide concentration in exhaust from stationary combustion sources, and is available at the American National Standards Institute, 1899 L Street NW, 11th Floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990. See *https://www.ansi.org* and *https://www.asme.org.*

Additionally, the EPA is including in the final rule the VCS ASTM D6420–18, "Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry," as an acceptable alternative to EPA Method 18 with the following caveats. This ASTM procedure employs a direct interface gas chromatograph/mass spectrometer (GCMS) to identify and quantify the 36 volatile organic compounds (or sub-set of these compounds) listed in the method, and has been approved by the EPA as an alternative to EPA Method 18 only when the target compounds are all known and the target compounds are all listed in ASTM D6420 as measurable. ASTM D6420–18 should not be used for methane and ethane because the atomic mass is less than 35; and ASTM D6420 should never be specified as a total VOC method.

The EPA is including in the final rule the VCS ASTM D2369–10(2015) el, "'Test Method for Volatile Content of Coatings;" ASTM D2697–03 (2014), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings;" and ASTM D3960–98, "Standard Practice for Determining VOC Content of Paints and Related Coatings," as acceptable alternatives to EPA Method 24 for determining the weight-percent HAP content of coatings, by determining the volatile matter or VOC content of coatings and use that value as a substitute for the mass fraction of HAP, for demonstrating compliance with the weight-percent HAP limit alternative in 40 CFR 63.8055. ASTM D2369–10(2015) el is used for calculating the weight percent volatile organic content in coatings and the weight percent solids content. ASTM D2697–03 (2014) measures the volume of dry coating solids in a given volume of liquid coating. ASTM D3960–98 is used for determining the VOC content of paints and related coatings and for calculating the VOC content expressed as the mass of VOC: (1) Per unit volume of coating less water and exempt volatile compounds, and (2) per unit volume of coating solids and (3) per unit mass of coating solids.

In addition, the EPA is including in the final rule-the VCS ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," as an acceptable alternative to EPA Method 320 of appendix A to 40 CFR part 63 with caveats requiring inclusion of selected annexes to the standard as mandatory. ASTM D6348–12e1 identifies and measures the concentration of organic compounds in an exhaust stream. The test plan preparation and implementation in the Annexes to ASTM D6348–12e1, Sections Al through A8 are mandatory; and in ASTM D6348–12e1, Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be $70\% \geq R \leq 130\%$. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/% R.

The five ASTM methods (ASTM D2369–10(2015) el, ASTM D2697–03, ASTM D3960–98, ASTM D6348–12e1, and ASTM D6420–18) are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See *https://www.astm.org/.*

The EPA is including in the final rule the VCS CARB Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products," as an acceptable alternative to EPA Method 311 for determining the weight-percent HAP content of coatings, by determining the mass fraction of volatile matter and use that value as a substitute for the mass fraction of HAP, for demonstrating compliance with the weight-percent HAP limit alternative in 40 CFR 63.8055. This method is used to determine the weight percent of VOC in consumer products and ROC in aerosol coating products and is available from the California Air Resources Board (CARB), 1001 I Street, Sacramento, CA 95814. See *https://ww2.arb.ca.gov/.*

Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing,* which is available in the docket for this rulemaking.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not significantly affect the level of protection provided to human health or the environment. The documentation for this decision is contained in section V.F of this preamble and the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Facilities,* available in the docket for this rulemaking.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons stated in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:

■ a. Revising paragraphs (e)(1) and (h)(26), (30), (50), (86), and (94);

■ b. Redesignating paragraphs (k)(1) through (5) as paragraphs (k)(2) through (6); and

■ c. Adding new paragraph (k)(1).

The revisions and addition read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), and 63.1625(b), table 5 to subpart EEEE, §§ 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), and 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, §§ 63.7822(b), 63.7824(e), 63.7825(b), 63.8000(d), 63.9307(c), 63.9323(a), 63.9621(b) and (c), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, and table 4 to subpart AAAAA, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(h) * * *

(26) ASTM D2369–10 (Reapproved 2015)e1, Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.3151(a), 63.3360(c), 63.3961(j), 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4541(a), and 63.4561(j), appendix A to subpart PPPP, and §§ 63.4741(a), 63.4941(a) and (b), 63.4961(j), and 63.8055(b).

* * * * *

(30) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§ 63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), 63.4941(b), and 63.8055(b).

* * * * *

(50) ASTM D3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, approved November 10, 1998, IBR approved for §§ 63.3360(c) and 63.8055(b).

* * * * *

(86) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.997(e), 63.1571(a), and 63.2354(b), table 5 to subpart EEEE, table 4 to subpart UUUU, and §§ 63.7142(a) and (b) and 63.8000(d).

* * * * *

(94) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, approved November 1, 2018, IBR approved for §§ 63.987(b), 63.997(e), and 63.2354(b), table 5 to subpart EEEE, and §§ 63.2450(j) and 63.8000(d).

* * * * *

(k) * * *

(1) Method 310, ''Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products,'' amended May 25, 2018, IBR approved for § 63.8055(b).

* * * * *

Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing

■ 3. Section 63.7985 is amended by revising paragraphs (a)(1) through (3), (b) introductory text, (b)(1) through (3), and (d)(1) through (4) to read as follows:

§ 63.7985 Am I subject to the requirements in this subpart?

(a) * * *

(1) Are located at or are part of a major source of hazardous air pollutants (HAP) emissions, as defined in section 112(a) of the Clean Air Act (CAA);

(2) Manufacture coatings as defined in § 63.8105;

(3) Process, use, or produce HAP; and

* * * * *

(b) Miscellaneous coating manufacturing operations include the facility-wide collection of equipment described in paragraphs (b)(1) through (4) of this section that is used to manufacture coatings as defined in § 63.8105. Miscellaneous coating manufacturing operations also include cleaning operations.

(1) Process vessels;

(2) Storage tanks for feedstocks and products;

(3) Components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and

* * * * *

(d) * * *

(1) Research and development facilities, as defined in section 112(c)(7) of the CAA;

(2) The affiliated operations located at an affected source under subparts GG (National Emission Standards for Aerospace Manufacturing and Rework Facilities), KK (National Emission Standards for the Printing and Publishing Industry), JJJJ (NESHAP: Paper and Other Web Coating), MMMM (National Emission Standards for Miscellaneous Metal Parts and Products Surface Coating Operations) and SSSS (NESHAP: Surface Coating of Metal Coil) of this part. Affiliated operations include, but are not limited to, mixing or dissolving of coating ingredients; coating mixing for viscosity adjustment, color tint or additive blending, or pH adjustment; cleaning of coating lines and coating line parts; handling and storage of coatings and solvent; and conveyance and treatment of wastewater;

(3) Ancillary equipment such as boilers and incinerators (only those not used to comply with the emission limits in Tables 1 through 5 to this subpart), chillers and refrigeration systems, and other equipment that is not directly involved in the manufacturing of a coating (*i.e.,* it operates as a closed system, and materials are not combined with materials used to manufacture the coating);

(4) Quality assurance/quality control laboratories; or

* * * * *

■ 4. Section 63.7990 is amended by revising paragraph (a) to read as follows:

§ 63.7990 What parts of my plant does this subpart cover?

(a) This subpart applies to each miscellaneous coating manufacturing affected source as defined in paragraph (b) of this section.

* * * * *

■ 5. Section 63.7995 is amended by revising paragraphs (a) introductory text and (b) and adding paragraph (e) to read as follows:

§ 63.7995 When do I have to comply with this subpart?

* * * * *

(a) Except as specified in paragraph (e) of this section, if you have a new affected source, you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

* * * * *

(b) Except as specified in paragraph (e) of this section, if you have an existing affected source on December 11, 2003, then you must comply with the requirements for existing sources in this subpart no later than December 11, 2006.

* * * * *

(e) All affected sources that commenced construction or reconstruction on or after September 4, 2019, must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup or no later than August 14, 2020, whichever is later. All affected sources that commenced construction or reconstruction before September 4, 2019, must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section no later than August 14, 2023.

(1) The general requirements specified in §§ 63.8000(a)(2), (b)(2), (d)(8), and (f) and 63.8005(d)(5) and (h).

(2) The reporting requirements specified in § 63.8075(e)(5), (e)(6)(ii)(B) and (D), and (e)(6)(iii)(C) and (E).

(3) The recordkeeping requirements specified in § 63.8080(c), (e), (f), (h), and (i).

(4) The definitions specified in § 63.8105.

(5) The general provisions as specified in Table 10 to this subpart.

■ 6. Section 63.8000 is amended by:

■ a. Revising paragraphs (a), (b)(2), (c)(3), (d)(1) introductory text, and (d)(1)(i) and (iii);

■ b. Adding paragraph (d)(1)(vi);

■ c. Removing and reserving paragraph (d)(2);

■ d. Revising paragraphs (d)(3), (d)(4)(i)(A), (d)(4)(ii)(C), and (d)(4)(iv); and

■ e. Adding paragraphs (d)(8), (e), and (f).

The revisions and additions read as follows:

§ 63.8000 What are my general requirements for complying with this subpart?

(a) *Applicability.* You must comply with paragraphs (a)(1) and (2) of this section.

(1) Except as specified in paragraph (a)(2) of this section, you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times, except during periods of startup, shutdown, and malfunction. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§ 63.8005 through 63.8030 (or the alternative means of compliance in § 63.8050), except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.8070, 63.8075, and 63.8080.

(2) Beginning on the compliance dates specified in § 63.7995(e), paragraph (a)(1) of this section no longer applies. Instead, beginning no later than the compliance dates specified in § 63.7995(e), you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§ 63.8005 through 63.8030 (or the alternative means of compliance in § 63.8050), except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.8070, 63.8075, and 63.8080.

(b) * * *

(2) You must comply with paragraphs (b)(2)(i) and (ii) of this section.

(i) Except as specified in paragraph (b)(2)(ii) of this section, opening of a safety device, as defined in § 63.8105, is allowed at any time conditions require it to avoid unsafe conditions.

(ii) Beginning on the compliance dates specified in § 63.7995(e), paragraph (b)(2)(i) of this section no longer applies. Instead, opening of a safety device, as defined in § 63.8105, is considered a deviation, as defined in § 63.8105, unless it is a bypass of a control for a process vessel and accounted for as specified in § 63.8005(h).

(c) * * *

(3) If you use a halogen reduction device to reduce hydrogen halide and halogen HAP emissions that are generated by combusting halogenated vent streams, you must meet the requirements of § 63.994, except as specified in paragraph (f) of this section, and the requirements referenced therein. If you use a halogen reduction device before a combustion device, you must determine the halogen atom emission rate prior to the combustion device according to the procedures in § 63.115(d)(2)(v).

(d) * * *

(1) *Requirements for performance tests.* The requirements specified in paragraphs (d)(1)(i) through (vi) of this section apply instead of or in addition to the requirements for performance testing of control devices as specified in subpart SS of this part.

(i) Conduct gas molecular weight analysis using Method 3, 3A, or 3B in appendix A to 40 CFR part 60. As an alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures, you may use ANSI/ASME PTC 19–10–1981 Part 10 (incorporated by reference, *see* § 63.14) as an acceptable alternative.

* * * * *

(iii) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, to comply with any of the emission limits specified in Tables 1 through 6 to this subpart you may use the alternatives specified in paragraph (d)(1)(iii)(A) or (B) of this section.

(A) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, you may use Method 320 of appendix A to this part. When using Method 320, you must follow the analyte spiking procedures of section 13 of Method 320, unless you demonstrate that the complete spiking procedure has been conducted at a similar source. As an alternative to Method 320 of appendix A to this part, you may use ASTM Method D6348–12e1 (incorporated by reference, *see* § 63.14), with the caveats that the test plan preparation and implementation in the Annexes to ASTM Method D6348–12el, Sections Al through A8 are mandatory; and in ASTM Method D6348–12e1 Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a

target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/% R.

(B) As an alternative to using EPA Method 18, you may also use ASTM D6420–18 (incorporated by reference, *see* § 63.14), but only when the target compounds are all known and the target compounds are all listed in ASTM D6420–18 as measurable; ASTM D6420–18 should not be used for methane and ethane; and ASTM D6420–18 may not be used as a total VOC method.

* * * * *

(vi) You must conduct periodic performance tests and establish the operating limits required by §§ 63.8005(e), 63.8010(b)(1), and 63.8050(d)(3) within 5 years following the previous performance test. You must conduct the initial or first periodic performance test before August 14, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 71, and have conducted a performance test on or after August 15, 2022. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

(2) [Reserved]

(3) *Periodic verification.* For a control device with total inlet HAP emissions less than 1 ton per year (tpy), you must establish at least one operating limit for a parameter that you will measure and record at least once per averaging period (*i.e.,* daily or block) to verify that the control device is operating properly. You may elect to measure the same parameter that is required for control devices that control inlet HAP emissions equal to or greater than 1 tpy. If the parameter will not be measured continuously, you must request approval of your proposed procedure in the precompliance report. You must identify the operating limit or range and the measurement frequency, and you must provide rationale to support how these measurements demonstrate the control device is operating properly.

(4) * * *

(i) * * *

(A) If you wish to use a CEMS other than a Fourier Transform Infrared Spectroscopy (FTIR) meeting the requirements of Performance Specification 15 in appendix B to 40 CFR part 60 or a hydrogen chloride (HCl) CEMS meeting the requirements of Performance Specification 18 in appendix B to 40 CFR part 60 and Quality Assurance Procedure 6 in appendix F to 40 CFR part 60 to measure hydrogen halide and halogen HAP before we promulgate a Performance Specification for such CEMS, you must prepare a monitoring plan and submit it for approval in accordance with the procedures specified in § 63.8.

* * * * *

(ii) * * *

(C) For CEMS meeting Performance Specification 8 used to monitor performance of a noncombustion device, determine the predominant organic HAP using either process knowledge or the screening procedures of Method 18 in appendix A–6 to 40 CFR part 60 on the control device inlet stream, calibrate the monitor on the predominant organic HAP, and report the results as C_1. Use Method 18, ASTM D6420–18 (incorporated by reference, *see* § 63.14), or any approved alternative as the reference method for the relative accuracy tests, and report the results as C_1.

* * * * *

(iv) The CEMS data must be reduced to operating day or operating block averages computed using valid data, except monitoring data also are sufficient to constitute a valid hour of data if measured values are available for at least two of the 15-minute periods during an hour when calibration, quality assurance, or maintenance activities are being performed. An operating block is a period of time from the beginning to end of batch operations in the manufacturing of a coating. Operating block averages may be used only for process vessel data.

* * * * *

(8) *Quality control program.* Beginning no later than the compliance dates specified in § 63.7995(e), in lieu of the requirements specified in § 63.8(d)(3), you must keep the written quality control program procedures required by § 63.8(d)(2) on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

(e) *General duty.* Beginning no later than August 14, 2023, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) *Removal of startup, shutdown, and malfunction requirements.* Beginning on the compliance dates specified in § 63.7995(e), the referenced provisions specified in paragraphs (f)(1) through (22) of this section do not apply when demonstrating compliance with this subpart through referenced provisions of subparts SS, UU, and TT of this part.

(1) Section 63.983(a)(5).

(2) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.984(a).

(3) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.985(a).

(4) The phrase "other than start-ups, shutdowns, or malfunctions" in § 63.994(c)(1)(ii)(D).

(5) Section 63.996(c)(2)(ii).

(6) Section 63.997(e)(1)(i).

(7) The term "breakdowns" from § 63.998(b)(2)(i).

(8) Section 63.998(b)(2)(iii).

(9) The phrase "other than periods of startups, shutdowns, and malfunctions" from § 63.998(b)(5)(i)(A).

(10) The phrase "other than periods of startups, shutdowns, and malfunctions" from § 63.998(b)(5)(i)(C).

(11) The phrase ", except as provided in paragraphs (b)(6)(i)(A) and (B) of this section" from § 63.998(b)(6)(i).

(12) The second sentence of § 63.998(b)(6)(ii).

(13) Section 63.998(c)(1)(ii)(D), (E), (F), and (G).

(14) Section 63.998(d)(1)(ii).

(15) Section 63.998(d)(3)(i) and (ii).

(16) The phrase ''may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or'' from § 63.1005(e)(4)(i).

(17) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1007(e)(1)(ii)(A).

(18) The phrase ''(except during periods of startup, shutdown, or malfunction)'' from § 63.1009(e)(1)(i)(A).

(19) The phrase ''(except during periods of startup, shutdown, or malfunction)'' from § 63.1012(b)(1).

(20) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1026(e)(1)(ii)(A).

(21) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1028(e)(1)(i)(A).

(22) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1031(b)(1).

■ 7. Section 63.8005 is amended by:

■ a. Revising paragraphs (a)(2) and (d)(1);

■ b. Adding paragraph (d)(5);

■ c. Revising paragraphs (e) introductory text, (e)(2), and (g); and

■ d. Adding paragraph (h).

The revisions and additions read as follows:

§ 63.8005 What requirements apply to my process vessels?

(a) * * *

(2) For each control device used to comply with Table 1 to this subpart, you must comply with subpart SS of this part as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f) and paragraphs (b) through (g) of this section.

* * * * *

(d) * * *

(1) To demonstrate initial compliance with a percent reduction emission limit in Table 1 to this subpart, you must conduct the performance test or design evaluation under conditions as specified in § 63.7(e)(1), except as specified in paragraph (d)(5) of this section, and except that the performance test or design evaluation must be conducted under worst-case conditions. Also, the performance test for a control device used to control emissions from process vessels must be conducted according to § 63.1257(b)(8), including the submittal of a site-specific test plan for approval prior to testing. The requirements in § 63.997(e)(1)(i) and (iii) also do not apply for performance tests conducted to determine compliance with the emission limits for process vessels.

* * * * *

(5) Beginning on the compliance dates specified in § 63.7995(e), § 63.7(e)(1) no longer applies and performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(e) *Establishing operating limits.* You must establish operating limits under the conditions required for your initial compliance demonstration and periodic performance tests, except you may elect to establish operating limit(s) for conditions other than those under which a performance test was conducted as specified in paragraph (e)(1) of this section and, if applicable, paragraph (e)(2) of this section.

* * * * *

(2) If you elect to establish separate operating limits for different emission episodes, you must maintain records as specified in § 63.8080(g) of each point at which you change from one operating limit to another, even if the duration of the monitoring for an operating limit is less than 15 minutes.

* * * * *

(g) *Flow indicators.* If flow to a control device could be intermittent or bypassed, you must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to identify periods of no flow, or you must comply with the alternatives requirements of paragraph (g)(1) or (2) of this section. Periods of no flow may not be used in daily or block averages. You must perform a flow meter verification check annually for at least two points: One at the instrument's zero and the other at the instrument's span.

(1) You must use a valve position or bypass damper position indicator that provides a continuous reading and record of the bypass valve or damper position when the control device is in operation. You must inspect the monitoring system semiannually to verify that the monitor will indicate valve position.

(2) You must secure the bypass line valve or bypass damper in the non-diverting position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the non-diverting position and that the vent stream is not diverted through the bypass line. You must also record the occurrence of all periods when the seal or closure mechanism is broken, or the key for a lock-and-key type lock has been checked out.

(h) *Bypass.* Beginning no later than the compliance date specified in § 63.7995(e), when determining compliance with the percent emission reduction requirements in Table 1 to this subpart, you must account for the time that the control device was bypassed. You must use Equation 1 to this section to determine the allowable total hours of bypass for each semi-annual compliance period. To demonstrate compliance, the actual total hours of bypass must not exceed the allowable total hours of bypass calculated by Equation 1 to this section.

$$T_{byp} = (R - OCE) / R * T_{op} \quad \text{Eq. 1}$$

T_{byp} = Total allowable source operating time (hours) when the control device for stationary process vessels can be bypassed during the semiannual compliance period for any reason.

R = Control efficiency of control device, percent, as determined by Equation 6 in § 63.997(e)(2)(iv)(C).

OCE = The applicable percent emission reduction requirement in Table 1 to this subpart.

T_{op} = Total source operating time (hours) for stationary process vessels during the semiannual compliance period.

8. Section 63.8010 is amended by revising paragraph (a) to read as follows:

§ 63.8010 What requirements apply to my storage tanks?

(a) *Introduction.* You must meet each emission limit in Table 2 to this subpart that applies to your storage tanks, and you must meet each applicable requirement specified in § 63.8000(b). For each control device used to comply with Table 2 to this subpart, you must comply with subpart SS of this part as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f) and paragraphs (b) through (d) of this section.

* * * * *

■ 9. Section 63.8025 is amended by revising paragraph (a) to read as follows:

§ 63.8025 What requirements apply to my transfer operations?

(a) You must comply with each emission limit and work practice standard in Table 5 to this subpart that applies to your transfer operations, and you must meet all applicable requirements specified in § 63.8000(b). For each control device used to comply with Table 5 to this subpart, you must comply with subpart SS of this part as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f) and paragraph (b) of this section.

* * * * *

■ 10. Section 63.8050 is amended by adding paragraphs (c)(3)(i) through (iii) to read as follows:

§ 63.8050 How do I comply with emissions averaging for stationary process vessels at existing sources?

* * * * *

(c) * * *

(3) * * *

(i) If emissions are routed through a closed-vent system to a condenser control device, determine controlled emissions using the procedures specified in § 63.1257(d)(3).

(ii) If emissions are routed through a closed-vent system to any control device other than a condenser, determine actual emissions after determining the efficiency of the control device using the procedures in subpart SS of this part as specified in § 63.8000(c).

(iii) If the vessel is vented to the atmosphere, then actual emissions are equal to the uncontrolled emissions estimated in accordance with paragraph (c)(1) of this section.

* * * * *

■ 11. Section 63.8055 is amended by revising paragraphs (b)(1), (2), and (4) to read as follows:

§ 63.8055 How do I comply with a weight percent HAP limit in coating products?

* * * * *

(b) * * *

(1) Method 311 (appendix A to this part). As an alternative to Method 311, you may use California Air Resources Board Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products (incorporated by reference, *see* § 63.14) for use with aerosol cans.

(2) Method 24 (appendix A to 40 CFR part 60). You may use Method 24 to determine the mass fraction of volatile matter and use that value as a substitute for the mass fraction of HAP, or one of the alternatives in paragraphs (b)(2)(i) through (iii) of this section.

(i) ASTM D2369–10 (Reapproved 2015)e1, (incorporated by reference, *see* § 63.14);

(ii) ASTM D2697–03 (Reapproved 2014) (incorporated by reference, *see* § 63.14); or

(iii) ASTM D3960–98 (incorporated by reference, *see* § 63.14).

* * * * *

(4) You may rely on formulation data from raw material suppliers if it represents each organic HAP that is present at 0.1 percent by mass or more for the HAP listed in Table 11 to this subpart, and at 1.0 percent by mass or more for other compounds. If the HAP weight percent estimated based on formulation data conflicts with the results of a test conducted according to paragraphs (b)(1) through (3) of this section, then there is a rebuttal presumption that the test results are accurate unless, after consultation, you demonstrate to the satisfaction of the permitting authority that the test results are not accurate and that the formulation data are more appropriate.

■ 12. Section 63.8070 is amended by revising paragraph (c) to read as follows:

§ 63.8070 What notifications must I submit and when?

* * * * *

(c) *Notification of performance test.* If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1). For any performance test required as part of the compliance procedures for process vessels in Table 1 to this subpart, you must also submit the test plan required by § 63.7(c) and the emission profile with the notification of the performance test.

■ 13. Section 63.8075 is amended by:

■ a. Revising paragraphs (c)(1), (d) introductory text, (d)(1), (d)(2)(ii), (e)(5) introductory text, (e)(6)(ii) introductory text, and (e)(6)(ii)(B);

■ b. Adding paragraph (e)(6)(ii)(D);

■ c. Revising paragraphs (e)(6)(iii) introductory text and (e)(6)(iii)(C) and (E);

■ d. Adding paragraph (e)(6)(iii)(L);

■ e. Removing and reserving paragraph (e)(8)(ii)(B); and

■ f. Adding paragraphs (f) through (k).

The revisions and additions read as follows:

§ 63.8075 What reports must I submit and when?

* * * * *

(c) * * *

(1) Requests for approval to set operating limits for parameters other than those specified in §§ 63.8005 through 63.8030, including parameters for enhanced biological treatment units. Alternatively, you may make these requests according to § 63.8(f).

* * * * *

(d) *Notification of compliance status report.* You must submit a notification of compliance status report according to the schedule in paragraph (d)(1) of this section, and the notification of compliance status report must include the information specified in paragraph (d)(2) of this section.

(1) You must submit the notification of compliance status report no later than 150 days after the applicable compliance date specified in § 63.7995. You must submit a separate notification of compliance status report after the applicable compliance date specified in § 63.7995(e).

(2) * * *

(ii) The results of performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate compliance according to §§ 63.8005 through 63.8030 and 63.8055. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures.

* * * * *

(e) * * *

(5) For each SSM during which excess emissions occur, the compliance report must include the information specified in paragraphs (e)(5)(i) and (ii) of this section. On and after the compliance date specified in § 63.7995(e), this paragraph (e)(5) no longer applies.

* * * * *

(6) * * *

(ii) For each deviation from an emission limit, operating limit, and work practice standard that occurs at an affected source where you are not using

a continuous monitoring system (CMS) to comply with the emission limit or work practice standards in this subpart, you must include the information in paragraphs (e)(6)(ii)(A) through (D) of this section.

* * * * *

(B) Before the compliance date specified in § 63.7995(e), information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken. On and after the compliance date specified in § 63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time, and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

* * * * *

(D) On and after the compliance date specified in § 63.7995(e), report the total bypass hours, as monitored according to the provisions of § 63.8080(h).

(iii) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to comply with the emission limit in this subpart, you must include the information in paragraphs (e)(6)(iii)(A) through (L) of this section. This includes periods of SSM.

* * * * *

(C) Before the compliance date specified in § 63.7995(e), the date and time that each deviation started and stopped, and whether each deviation occurred during a period of SSM or during another period. On and after the compliance date specified in § 63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time, and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

* * * * *

(E) Before the compliance date specified in § 63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after the compliance date specified in § 63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(L) A summary of the total duration of CMS data unavailability during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

* * * * *

(f) *Performance test report.* On and after August 14, 2023, within 60 days after the date of completing each performance test required by § 63.8000, § 63.8005, or § 63.8010, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section. The requirements of this paragraph (f) do not affect the schedule for completing performance tests specified in §§ 63.8000, 63.8005, and 63.8010.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim that some of the performance test information being submitted under paragraph (f) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (f).

(g) *Performance evaluation report.* On and after August 14, 2023, within 60 days after the date of completing each CMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* If you claim some of the information submitted under paragraph (g) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML

schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f) of this section.

(h) *Reporting.* You must submit to the Administrator initial compliance reports, notification of compliance status reports, and compliance reports of the following information. Beginning on and after August 14, 2023, submit all subsequent reports following the procedure specified in paragraph (i) of this section.

(i) *CEDRI reports.* If you are required to submit reports following the procedure specified in this paragraph (i), you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov*).

(1) *Compliance reports.* The requirements of this paragraph (i) do not affect the schedule for submitting the initial notification or the notification of compliance status reports. You must use the appropriate electronic compliance report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website.

(2) *Initial notification reports and notification of compliance status reports.* You must upload to CEDRI a portable document format (PDF) file of each initial notification and of each notification of compliance status.

(3) *All reports.* The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website, where applicable. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described in this paragraph (i).

(j) *Extensions for CDX/CEDRI outages and force majeure events.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement in this section. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (j)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(k) *Force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of *force majeure* for failure to timely comply with the reporting requirement in this section. To assert a claim of *force majeure,* you must meet the requirements outlined in paragraphs (k)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

■ 14. Section 63.8080 is amended by revising the introductory text and paragraphs (c), (e), and (f) and adding paragraphs (h) through (j) to read as follows:

§ 63.8080 What records must I keep?

You must keep the records specified in paragraphs (a) through (h) of this section.

* * * * *

(c) Before the compliance date specified in § 63.7995(e), a record of each time a safety device is opened to avoid unsafe conditions in accordance with § 63.8000(b)(2). On and after the compliance date specified in § 63.7995(e), a record of the information in paragraphs (c)(1) through (3) of this section.

(1) The source, nature, and cause of the opening.

(2) The date, time, and duration of the opening.

(3) An estimate of the quantity of total HAP emitted during the opening and the method used for determining this quantity.

* * * * *

(e) Before the compliance date specified in § 63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of SSM or during another period. On and after the compliance date specified in § 63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of SSM or during another period.

(f) Before the compliance date specified in § 63.7995(e), in the SSMP required by § 63.6(e)(3), you are not required to include Group 2 or non-affected emission points. For equipment leaks only, the SSMP requirement is limited to control devices and is optional for other equipment. On and after the compliance date specified in § 63.7995(e), the requirements of this paragraph (f) no longer apply.

* * * * *

(h) On and after the compliance date specified in § 63.7995(e), records of the total source operating time (hours) for stationary process vessels during the semiannual compliance period, and the source operating time (hours) when the control device for stationary process vessels was bypassed during the semiannual compliance period for any reason, as used in determining compliance with the percent emission reduction requirements in Table 1 to this subpart, as specified in § 63.8005(h).

(i) On and after the compliance date specified in § 63.7995(e), for each deviation from an emission limitation reported under § 63.8075(e)(5), a record of the information specified in paragraphs (i)(1) and (2) of this section, as applicable.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(j) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 15. Section 63.8090 is amended by revising paragraph (b) to read as follows:

§ 63.8090 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

* * * * *

(b) *Compliance with 40 CFR part 60, subpart Kb.* After the compliance dates specified in § 63.7995, you are in compliance with this subpart for any storage tank that is assigned to miscellaneous coating manufacturing operations and that is both controlled with a floating roof and in compliance with the provisions of 40 CFR part 60, subpart Kb. You are in compliance with this subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in this subpart. You must also identify in your notification of compliance status report required by § 63.8075(d) which storage tanks are in compliance with 40 CFR part 60, subpart Kb.

* * * * *

■ 16. Section 63.8105 is amended in paragraph (g) by revising the definition for "Deviation" and removing the definition for "Small control device" to read as follows:

§ 63.8105 What definitions apply to this subpart?

* * * * *

(g) * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limit, operating limit, or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Before the compliance date specified in § 63.7995(e), fails to meet any emission limit, operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart. On and after the compliance date specified in § 63.7995(e), this paragraph (iii) no longer applies.

* * * * *

■ 17. Table 1 to subpart HHHHH of part 63 is amended by revising row 4 to read as follows:

* * * * *

TABLE 1 TO SUBPART HHHHH OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR PROCESS VESSELS

For each . . .	You must . . .	And you must . . .
* *	* * *	* *
4. Halogenated vent stream from a process vessel subject to the requirements of item 2 or 3 of this table for which you use a combustion control device to control organic HAP emissions.	a. Use a halogen reduction device after the combustion control device; or. b. Use a halogen reduction device before the combustion control device.	i. Reduce overall emissions of hydrogen halide and halogen HAP by ≥95 percent; or ii. Reduce overall emissions of hydrogen halide and halogen HAP to ≤0.45 kilogram per hour (kg/hr). Reduce the halogen atom mass emission rate to ≤0.45 kg/hr.

■ 18. Table 3 to subpart HHHHH of part 63 is revised to read as follows:

As required in § 63.8015, you must meet each requirement in the following table that applies to your equipment leaks.

TABLE 3 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR EQUIPMENT LEAKS

For all . . .	You must . . .
1. Equipment that is in organic HAP service at an existing source	a. Comply with the requirements in §§ 63.424(a) through (d) and 63.428(e), (f), and (h)(4), except as specified in § 63.8015(b); or b. Comply with the requirements of subpart TT of this part, except as specified in § 63.8000(f); or c. Comply with the requirements of subpart UU of this part, except as specified in §§ 63.8000(f) and 63.8015(c) and (d).
2. Equipment that is in organic HAP service at a new source	a. Comply with the requirements of subpart TT of this part, except as specified in § 63.8000(f); or b. Comply with the requirements of subpart UU of this part, except as specified in §§ 63.8000(f) and 63.8015(c) and (d).

■ 19. Table 7 to subpart HHHHH of part 63 is revised to read as follows:

As specified in § 63.8020, the partially soluble HAP in wastewater that are subject to management and treatment requirements in this subpart are listed in the following table:

TABLE 7 TO SUBPART HHHHH OF PART 63—PARTIALLY SOLUBLE HAZARDOUS AIR POLLUTANTS

Chemical name . . .	CAS No.
1. 1,1,1-Trichloroethane (methyl chloroform)	71556
2. 1,1,2,2-Tetrachloroethane	79345
3. 1,1,2-Trichloroethane	79005
4. 1,1-Dichloroethylene (vinylidene chloride)	75354
5. 1,2-Dibromoethane	106934
6. 1,2-Dichloroethane (ethylene dichloride)	107062
7. 1,2-Dichloropropane	78875
8. 1,3-Dichloropropene	542756
9. 2,4,5-Trichlorophenol	95954
10. 1,4-Dichlorobenzene	106467
11. 2-Nitropropane	79469
12. 4-Methyl-2-pentanone (MIBK)	108101
13. Acetaldehyde	75070
14. Acrolein	107028
15. Acrylonitrile	107131
16. Allyl chloride	107051
17. Benzene	71432
18. Benzyl chloride	100447
19. Biphenyl	92524
20. Bromoform (tribromomethane)	75252
21. Bromomethane	74839
22. Butadiene	106990
23. Carbon disulfide	75150
24. Chlorobenzene	108907
25. Chloroethane (ethyl chloride)	75003
26. Chloroform	67663
27. Chloromethane	74873
28. Chloroprene	126998
29. Cumene	98828
30. Dichloroethyl ether	111444
31. Dinitrophenol	51285
32. Epichlorohydrin	106898
33. Ethyl acrylate	140885
34. Ethylbenzene	100414
35. Ethylene oxide	75218
36. Ethylidene dichloride	75343
37. Hexachlorobenzene	118741
38. Hexachlorobutadiene	87683
39. Hexachloroethane	67721
40. Methyl methacrylate	80626
41. Methyl-t-butyl ether	1634044
42. Methylene chloride	75092
43. N-hexane	110543
44. N,N-dimethylaniline	121697
45. Naphthalene	91203
46. Phosgene	75445
47. Propionaldehyde	123386
48. Propylene oxide	75569
49. Styrene	100425
50. Tetrachloroethylene (perchloroethylene)	127184
51. Tetrachloromethane (carbon tetrachloride)	56235

TABLE 7 TO SUBPART HHHHH OF PART 63—PARTIALLY SOLUBLE HAZARDOUS AIR POLLUTANTS—Continued

Chemical name . . .	CAS No.
52. Toluene	108883
53. Trichlorobenzene (1,2,4-)	120821
54. Trichloroethylene	79016
55. Trimethylpentane	540841
56. Vinyl acetate	108054
57. Vinyl chloride	75014
58. Xylene (m)	108383
59. Xylene (o)	95476
60. Xylene (p)	106423

■ 20. The heading of table 8 to subpart HHHHH of part 63 is revised to read as follows:

TABLE 8 TO SUBPART HHHHH OF PART 63—SOLUBLE HAZARDOUS AIR POLLUTANTS

* * * * *

■ 21. Table 9 to subpart HHHHH of part 63 is amended by adding rows 4 and 5 to read as follows:

* * * * *

TABLE 9 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a . . .	The report must contain . . .	You must submit the report . . .
* *	* * *	* *
4. Performance test report	The information specified in § 63.8075(f)	Within 60 days after completing each performance test according to the requirements in § 63.8075(f).
5. Performance evaluation report	The information specified in § 63.8075(g)	Within 60 days after completing each CMS performance evaluation according to the requirements in § 63.8075(g).

■ 22. Table 10 to subpart HHHHH of part 63 is revised to read as follows:

As specified in § 63.8095, the parts of the general provisions that apply to you are shown in the following table:

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART

Citation	Subject	Explanation
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities	Yes.
§ 63.5	Construction/Reconstruction	Yes.
§ 63.6(a)	Applicability	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources	Yes.
§ 63.6(b)(5)	Notification	Yes.
§ 63.6(b)(6)	[Reserved]	
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Yes.
§ 63.6(c)(3)–(4)	[Reserved]	
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major	Yes.
§ 63.6(d)	[Reserved]	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See § 63.8000(e) for the general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions as Soon as Possible	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(e)(1)(iii)–(2)	Operation and Maintenance	Yes.
§ 63.6(e)(3)	SSM Plan	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(f)(1)	Compliance with Non-Opacity Standards Except During SSM	No. See § 63.8000(a).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Yes.
§ 63.6(h)(1)	Compliance with Opacity/Visible Emission (VE) Standards Except During SSM.	No. See § 63.8000(a).
§ 63.6(h)(2)–(9)	Opacity/VE Standards	Only for flares for which Method 22 of 40 CFR part 60, appendix A–7, observations are required as part of a flare compliance assessment.
§ 63.6(i)(1)–(14)	Compliance Extension	Yes.
§ 63.6(j)	Presidential Compliance Exemption	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Yes, except substitute 150 days for 180 days.
§ 63.7(a)(3)–(4)	CAA Section 114 Authority, Force Majeure	Yes, and these paragraphs also apply to flare compliance assessments as specified under § 63.997(b)(2).

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Explanation
§ 63.7(b)(1)	Notification of Performance Test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Yes, except the test plan must be submitted with the notification of the performance test if the control device controls process vessels.
§ 63.7(d)	Testing Facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests	Yes, before the compliance date specified in § 63.7995(e), except that performance tests for process vessels must be conducted under worst-case conditions as specified in § 63.8005. No, on and after the compliance date specified in § 63.7995(e). See § 63.8005(d).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests	Yes.
§ 63.7(e)(3)	Test Run Duration	Yes.
§ 63.7(f)	Alternative Test Method	Yes.
§ 63.7(g)	Performance Test Data Analysis	Yes.
§ 63.7(h)	Waiver of Tests	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Yes.
§ 63.8(a)(2)	Performance Specifications	Yes.
§ 63.8(a)(3)	[Reserved]	
§ 63.8(a)(4)	Monitoring with Flares	Yes.
§ 63.8(b)(1)	Monitoring	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Yes.
§ 63.8(c)(1)(i)	Maintain and operate CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See § 63.8000(e) for the general duty to maintain and operate each CMS.
§ 63.8(c)(1)(ii)	Routine repairs	Yes.
§ 63.8(c)(1)(iii)	Requirement to develop SSM plan for CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.
§ 63.8(c)(4)	Requirements	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part. This subpart does not contain requirements for continuous opacity monitoring systems (COMS).
§ 63.8(c)(4)(i)	CMS Requirements	No. This subpart does not require COMS.
§ 63.8(c)(4)(ii)	CMS requirements	Yes.
§ 63.8(c)(5)	COMS Minimum Procedures	No. This subpart does not contain opacity or VE limits.
§ 63.8(c)(6)	CMS Requirements	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(c)(7)–(8)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(d)(1)–(2)	CMS Quality Control	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(d)(3)	Written procedures for CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See § 63.8000(d)(8).
§ 63.8(e)	CMS Performance Evaluation	Section 63.8(e)(6)(ii) does not apply because this subpart does not require COMS. Other sections apply only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes, except you may also request approval using the precompliance report.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Only for CEMS.
§ 63.8(g)(1)–(4)	Data Reduction	Only when using CEMS, except § 63.8(g)(2) does not apply because data reduction requirements for CEMS are specified in § 63.8000(d)(4)(iv). The requirements for COMS do not apply because this subpart has no opacity or VE limits.
§ 63.8(g)(5)	Data Reduction	No. Requirements for CEMS are specified in § 63.8000(d)(4). Requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.9(a)	Notification Requirements	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Yes.
§ 63.9(c)	Request for Compliance Extension	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source	Yes.
§ 63.9(e)	Notification of Performance Test	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	No. This subpart does not contain opacity or VE limits.
§ 63.9(g)	Additional Notifications When Using CMS	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	Yes, except this subpart has no opacity or VE limits, and § 63.9(h)(2) does not apply because § 63.8075(d) specifies the required contents and due date of the notification of compliance status report.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.
§ 63.9(j)	Change in Previous Information	No, § 63.8075(e)(8) specifies reporting requirements for process changes.
§ 63.10(a)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(2)(i)–(ii)	Records related to SSM	No. Before the compliance date specified in § 63.7995(e), see § 63.998(c)(1)(ii)(D) through (G) and (d)(3) for recordkeeping requirements for periods of SSM. On and after the compliance date specified in § 63.7995(e), see § 63.8080(i).

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Explanation
§ 63.10(b)(2)(iii)	Records related to maintenance of air pollution control equipment	Yes.
§ 63.10(b)(2)(iv)–(v)	Records related to SSM	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.10(b)(2)(vi), (x), and (xi).	CMS Records	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.10(b)(2)(vii)–(ix)	Records	Yes.
§ 63.10(b)(2)(xii)	Records	Yes.
§ 63.10(b)(2)(xiii)	Records	Yes.
§ 63.10(b)(2)(xiv)	Records	Yes.
§ 63.10(b)(3)	Records	Yes.
§ 63.10(c)(1)–(6), (9)–(14)	Records	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.10(c)(7)–(8), (15)	Records	No. Recordkeeping requirements are specified in § 63.8080.
§ 63.10(d)(1)	General Reporting Requirements	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	No. This subpart does not contain opacity or VE limits.
§ 63.10(d)(4)	Progress Reports	Yes.
§ 63.10(d)(5)(i)	SSM Reports	No. Before the compliance date specified in § 63.7995(e), see § 63.8075(e)(5) and (6) for the SSM reporting requirements. On and after the compliance date specified in § 63.7995(e), these requirements no longer apply.
§ 63.10(d)(5)(ii)	Immediate SSM reports	No.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Only for CEMS, but § 63.10(e)(2)(ii) does not apply because this subpart does not require COMS.
§ 63.10(e)(3)	Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(i)–(iii)	Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(vi–viii)	Excess Emissions Report and Summary Report	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(4)	Reporting COMS data	No. This subpart does not contain opacity or VE limits.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Yes.
§ 63.11	Control and work practice requirements	Yes.
§ 63.12	Delegation	Yes.
§ 63.13	Addresses	Yes.
§ 63.14	Incorporation by Reference	Yes.
§ 63.15	Availability of Information	Yes.

■ 23. Table 11 to subpart HHHHH of part 63 is added to read as follows:

TABLE 11 TO SUBPART HHHHH OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1

TABLE 11 TO SUBPART HHHHH OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

[FR Doc. 2020–13439 Filed 8–13–20; 8:45 am]

BILLING CODE 6560–50–P

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(59) *para*-Methoxybutyryl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide) 9837

* * * * * * *

(75) Valeryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide) 9840

* * * * *

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–22757 Filed 11–24–20; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0747; FRL–10010–12–OAR]

RIN 2060–AU16

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review

Correction

In rule document 2020–13439 beginning on page 49724 in the issue of August 14, 2020, make the following correction:

§ 63.8000 [Corrected]

■ On page 49742, in the first column, in § 63.8000(vi), in the 14th line ''August 15, 2022'' should read ''August 15, 2018''.

[FR Doc. C1–2020–13439 Filed 11–24–20; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA–HQ–OPPT–2018–0321; FRL–10016–96]

RIN 2070–AK33

Chemical Data Reporting; Final Extension of the 2020 Submission Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations by extending the submission deadline for 2020 reports to January 29, 2021. This is the final extension for the 2020 submission period only. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on the manufacturing, processing, and use of the chemical substances.

DATES: This final rule is effective November 25, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0321, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West, William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

Please note that due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Susan Sharkey, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8789; email address: *sharkey.susan@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, *e.g.,* chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, *e.g.,* utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

B. What action is the Agency taking?

The current 2020 CDR submission period is from June 1 to November 30, 2020 (on April 9, 2020, EPA extended the September 30, 2020 deadline to November 30, 2020 (see 85 FR 19890)). EPA is issuing this amendment to extend the deadline for 2020 CDR submission reports until January 29, 2021. This is an extension for the 2020 submission period only: Subsequent submission periods (recurring every four years, next in 2024) are not being amended.

The Agency is taking this action in response to concerns raised by the regulated community about their ability to submit the required information within the prescribed period. Written requests to extend the CDR submission period have been received by the Agency starting in late-September. Copies of these letters are included in the docket (see **ADDRESSES**), and, at the time of drafting this document, include the following specific communications:

- Air Products and Chemicals, Inc. 2020 CDR 90-day Extension Request [Letter]. September 25, 2020. Certain information needed to inform submissions is stored off-site and reviewing in-person presents a logistical challenge because of the COVID–19 pandemic (administrative staff is currently on business-critical or work from home status). (Ref. 1.)
- American Chemistry Council (ACC). Request for an Extension to the TSCA Chemical Data Reporting (CDR)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0746; FRL–10010–27–OAR]

RIN 2060–AT85

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Miscellaneous Organic Chemical Manufacturing source category regulated under national emission standards for hazardous air pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing decisions concerning the RTR, including amendments pursuant to the technology review for equipment leaks and heat exchange systems, and also amendments pursuant to the risk review to specifically address ethylene oxide emissions from storage tanks, process vents, and equipment leaks. In addition, we are taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including removing general exemptions for periods of SSM, adding work practice standards for periods of SSM where appropriate, and clarifying regulatory provisions for certain vent control bypasses. The EPA is also taking final action to add monitoring and operational requirements for flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins; add provisions for electronic reporting of performance test results and other reports; and include other technical corrections to improve consistency and clarity. We estimate that these final amendments will reduce hazardous air pollutants (HAP) emissions from this source category by approximately 107 tons per year (tpy) and reduce ethylene oxide emissions from this source category by approximately 0.76 tpy. We also estimate that these final amendments will reduce excess emissions of HAP from flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins by an additional 263 tpy.

DATES: This final rule is effective on August 12, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of August 12, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0746. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Tegan Lavoie, Sector Policies and Programs Division (E–143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5110; and email address: *lavoie.tegan@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; and email address: *woody.matthew@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACC American Chemistry Council
AEGL acute exposure guideline level
APCD air pollution control device
AMEL Alternative means of emission limitation
ANSI American National Standards Institute
BAAQMD Bay Area Air Quality Management District
Btu/scf British thermal unit per standard cubic foot
CAA Clean Air Act
CAP Chemical Accident Prevention
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emissions monitoring systems
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA Environmental Protection Agency
EPCRA Emergency Planning and Community Right-To-Know Act
ERT Electronic Reporting Tool
FID flame ionization detector
FTIR fourier transfer infrared spectrometry
gpm gallons per minute
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HES heat exchanger systems
HI hazard index
HON Hazardous Organic NESHAP
HQ hazard quotient
HRVOC highly reactive volatile organic compounds
IBR incorporation by reference
ICR Information Collection Request
IRIS Integrated Risk Information System
kg/yr kilograms per year
km kilometers
lb/yr pounds per year
LDAR leak detection and repair
LEL lower explosive limit
MACT maximum achievable control technology
MCPU miscellaneous organic chemical manufacturing process unit
MIR maximum individual risk
MON Miscellaneous Organic Chemical Manufacturing NESHAP
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP national emission standards for hazardous air pollutants
NHVcz net heating value of the combustion zone gas
NRDC Natural Resources Defense Council
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PDF portable document format
PDH propane dehydrogenation

PFTIR passive fourier transfer infrared spectrometry
POM polycyclic organic matter
ppm parts per million
ppmv parts per million by volume
ppmw parts per million by weight
PRA Paperwork Reduction Act
PRD pressure relief device(s)
psig pounds per square inch gauge
PSM Process Safety Management
RACT reasonably available control technology
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SCAQMD South Coast Air Quality Management District
SSM startup, shutdown, and malfunction
SV screening value
TAC Texas Administrative Code
TCEQ Texas Commission on Environmental Quality the Court United States Court of Appeals for the District of Columbia Circuit
TOC total organic compound
TOSHI target organ-specific hazard index
tpy tons per year
TRI Toxics Release Inventory
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standards
VOC volatile organic compound(s)

Background information. On December 17, 2019 (84 FR 69182), the EPA proposed revisions to the Miscellaneous Organic Chemical Manufacturing NESHAP (MON) based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* in Docket ID No. EPA–HQ–OAR–2018–0746. A "tracked changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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C. Judicial Review and Administrative Reconsideration
II. Background
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C. What changes did we propose for the Miscellaneous Organic Chemical Manufacturing source category in our December 17, 2019, RTR proposal?
III. What is included in this final rule?
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I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and Source Category	NAICS [1] code
Miscellaneous Organic Chemical Manufacturing	3251, 3252, 3253, 3254, 3255, 3256, and 3259, with several exceptions.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the

EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-organic-chemical-manufacturing-national-emission.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by October 13, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

On March 13, 2017, the U.S. District Court for District of Columbia ordered the EPA to perform all acts or duties required by CAA section 112(f)(2) and CAA section 112(d)(6) for 20 source categories, including Miscellaneous Organic Chemical Manufacturing, within three years of the date of the court order (See *California Communities Against Toxics, et al.* v. *Scott Pruitt,* 241 F. Supp. 3d 199 (D.D.C. 2017)). On February 19, 2020, the U.S. District Court for District of Columbia granted the EPA an extension on the final rule deadline for the Miscellaneous Organic Chemical Manufacturing source category from March 13, 2020, to May 29, 2020.

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, after consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 69182, December 17, 2019.

B. What is the Miscellaneous Organic Chemical Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the current NESHAP, herein called the Miscellaneous Organic Chemical

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

Manufacturing NESHAP (MON) on November 10, 2003 (68 FR 63852), and further amended the MON on July 1, 2005 (70 FR 38562), and July 14, 2006 (71 FR 40316). The standards are codified at 40 Code of Federal Regulations (CFR) part 63, subpart FFFF. The MON regulates HAP emissions from miscellaneous organic chemical manufacturing process units (MCPUs) located at major sources. An MCPU includes a miscellaneous organic chemical manufacturing process, as defined in 40 CFR 63.2550(i), and must meet the following criteria: (1) It manufactures any material or family of materials described in 40 CFR 63.2435(b)(1); (2) it processes, uses, or generates any of the organic HAP described in 40 CFR 63.2435(b)(2); and, (3) except for certain process vents that are part of a chemical manufacturing process unit, as identified in 40 CFR 63.100(j)(4), the MCPU is not an affected source or part of an affected source under another subpart of 40 CFR part 63. An MCPU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, pressure relief devices (PRDs), sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems that are used to manufacture any material or family of materials described in 40 CFR 63.2435(b)(1). Sources of HAP emissions regulated by the MON include the following: process vents, storage tanks, transfer racks, equipment leaks, wastewater streams, and heat exchange systems.

As of November 6, 2018, there were 201 miscellaneous organic chemical manufacturing facilities identified and in operation and subject to the MON standards, herein referred to as "MON facilities." This facility population count was developed using methods described in section II.C of the proposal preamble (84 FR 69182, December 17, 2019). A complete list of known MON facilities is available in Appendix 1 of the document, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0011).

C. What changes did we propose for the Miscellaneous Organic Chemical Manufacturing source category in our December 17, 2019, RTR proposal?

On December 17, 2019, the EPA published a proposed rule in the **Federal Register** for the MON, 40 CFR part 63, subpart FFFF, that took into consideration the RTR analyses (84 FR 69182). We proposed to find that the risks from the source category are unacceptable. We proposed to address risk by revising the MON pursuant to CAA section 112(f)(2) to require control of ethylene oxide emissions from process vents, storage tanks, and equipment "in ethylene oxide service." [2] We also proposed that these control requirements would both achieve acceptable risks and provide an ample margin of safety to protect public health and more stringent standards are not necessary to prevent an adverse environmental effect.

For process vents, we proposed to either reduce emissions of ethylene oxide by (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight, to a concentration less than 1 part per million by volume (ppmv) for each process vent, or to less than 5 pounds per year (lb/yr) for all combined process vents; or (2) venting emissions through a closed-vent system to a flare meeting the proposed flare operating requirements. For storage tanks, we proposed to reduce emissions of ethylene oxide by either (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent; or (2) venting emissions through a closed-vent system to a flare meeting the proposed flare operating requirements. We proposed removing the option to allow use of a design evaluation in lieu of performance testing to demonstrate compliance for both process vents and storage tanks in ethylene oxide service. We also proposed that owners or operators that choose to control emissions with a non-flare control device conduct an initial performance test on each control device in ethylene oxide service to verify performance at the required level of control, and we proposed conducting periodic performance testing on non-flare control devices in ethylene oxide service every 5 years.

To reduce risks from leaking equipment in ethylene oxide service, we co-proposed two options, *i.e.,* Control Option 1 and Control Option 2. In equipment leak co-proposed Control Option 1, we proposed that all light liquid pumps in ethylene oxide service be monitored monthly at a leak definition of 1,000 parts per million (ppm), and when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. Additionally, under co-proposed Control Option 1, we proposed that the leak repair exemption available for pumps at 40 CFR 63.1026(b)(3), 40 CFR 63.163(c)(3), and 40 CFR 65.107(b)(3) would not apply to equipment in ethylene oxide service. Also, as part of co-proposed Control Option 1, we proposed that all gas/vapor and light liquid connectors in ethylene oxide service be monitored annually at a leak definition of 500 ppm, and when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. In equipment leak co-proposed Control Option 2, we proposed that more stringent equipment leak standards would apply to the facilities with a maximum individual risk (MIR) greater than 100-in-1 million after imposition of the proposed standards for process vents and storage tanks, as determined by this risk analysis (*i.e.,* Lanxess Corporation and Huntsman Performance). For these two facilities, pumps in ethylene oxide service would be required to be leakless (*i.e.,* have zero emissions) and monitored annually to verify there are no emissions. Additionally, valves in ethylene oxide service would be required to either be leakless and monitored annually or not be leakless and be monitored quarterly. For pumps and valves in ethylene oxide service, we proposed that equipment is considered leaking if an instrument reading above background is found. Furthermore, at

[2] For process vents, we proposed to define "in ethylene oxide service" to mean that each batch and continuous process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents would emit uncontrolled, undiluted ethylene oxide emissions greater than or equal to 5 lb/yr (2.27 kg/yr). For storage tanks of any capacity and vapor pressure, we proposed to define "in ethylene oxide service" to mean that the concentration of ethylene oxide of the stored liquid is greater than or equal to 1 part per million by weight (ppmw). We proposed that the exemptions for "vessels storing organic liquids that contain HAP only as impurities" and "pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere" listed in the definition of "storage tank" at 40 CFR 63.2550(i) do not apply for storage tanks in ethylene oxide service. For the ethylene oxide equipment leak provisions, we proposed to define "in ethylene oxide service" to mean any equipment that contains or contacts a fluid (liquid or gas) that is at least 0.1 percent by weight of ethylene oxide.

the two higher risk facilities with a MIR greater than 100-in-1 million, we proposed that connectors in ethylene oxide service would be monitored monthly at a leak definition of 100 ppm. We proposed that when a leak is detected it would be repaired as soon as practicable, but not later than 15 calendar days after it is detected, and a first attempt at repair be made no later than 5 calendar days after the leak is detected. As part of co-proposed Control Option 2, all other facilities with MON equipment in ethylene oxide service would be subject to the standards previously described in equipment leak co-proposed Control Option 1.

In addition, pursuant to the technology review for the Miscellaneous Organic Chemical Manufacturing source category, we proposed that no revisions to the current standards are necessary for process vents, storage tanks, transfer racks, and wastewater streams; however, we did propose changes for equipment leaks and heat exchange systems. We proposed revisions to the equipment leak requirements, pursuant to CAA section 112(d)(6), to lower the leak definition for pumps in light liquid service at existing batch processes from 10,000 ppmv to 1,000 ppmv with monthly monitoring and clarify that you must initially monitor for leaks within 30 days after initial startup of the equipment. In addition, we proposed revisions to the heat exchange system requirements, pursuant to CAA section 112(d)(6), to require owners or operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater.

We also proposed the following amendments:

- Revisions to the operating and monitoring requirements for flares that control ethylene oxide emissions, flares used to control emissions from processes that produce olefins and polyolefins, and providing the option for an owner or operator of a flare outside of this subset to choose to opt in to these revised requirements in lieu of complying with the current flare standards, pursuant to CAA section 112(d)(2) and (3);
- Requirements and clarifications for periods of SSM and bypasses, including for PRD releases, bypass lines on closed vent systems, maintenance activities, and certain gaseous streams routed to a fuel gas system, pursuant to CAA section 112(d)(2) and (3);
- Revisions to the SSM provisions of the MON (in addition to those related to vent control bypasses) in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners or operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- A requirement for electronic submittal of performance test results and reports, performance evaluation reports, and compliance reports;
- Clarifications to the requirements for nonregenerative adsorbers, and regenerative adsorbers that are regenerated offsite;
- IBR of an alternative test method for EPA Method 18 (with caveats);
- IBR of an alternative test method for EPA Method 101A and EPA Method 29 (portion for mercury only);
- IBR of an alternative test method for EPA Method 624;
- Use of an alternative test method for EPA Method 3B (for the manual procedures only and not the instrumental procedures);
- Use of an alternative test method for EPA Method 320 (with caveats); and
- Several minor editorial and technical changes in the subpart.

III. What is included in this final rule?

This action provides the EPA's final determinations pursuant to the RTR provisions of CAA section 112 for the Miscellaneous Organic Chemical Manufacturing source category and amends the MON based on those determinations. This action also finalizes other changes to the NESHAP, including adding requirements and clarifications for periods of SSM and bypasses; revising the operating and monitoring requirements for flares that control ethylene oxide emissions, flares used to control emissions from processes that produce olefins and polyolefins and allowing flares outside of this subset to comply with these amended flare requirements; adding provisions for electronic reporting of performance test results and reports, performance evaluation reports, and compliance reports; and other minor editorial and technical changes. This action also reflects several changes to the December 17, 2019, RTR proposal (84 FR 69182), in consideration of comments received during the public comment period as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Miscellaneous Organic Chemical Manufacturing source category?

This section describes the final amendments to the MON being promulgated pursuant to CAA section 112(f). Consistent with the proposal, the EPA determined that the risks for this source category under the current MACT provisions are unacceptable. When risks are unacceptable, the EPA must determine the emissions standards necessary to reduce risk to an acceptable level. As such, the EPA is promulgating final amendments to the MON pursuant to CAA section 112(f)(2) that require control of ethylene oxide for process vents, storage tanks, and equipment in ethylene oxide service, with some changes in the final rule due to comments received during the public comment period. As discussed in section IV.A of this preamble, implementation of these controls will reduce risk to an acceptable level that also provides an ample margin of safety to protect public health. For process vents in ethylene oxide service, the EPA is finalizing the requirement, as proposed, to either reduce emissions of ethylene oxide by (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 5 lb/yr for all combined process vents; or (2) venting emissions through a closed-vent system to a flare meeting the flare operating requirements discussed in sections IV.A.1 and IV.C.2 of the proposal preamble (84 FR 69182, December 17, 2019). However, based on comments received on the proposed rulemaking, we are revising the proposed definition of "in ethylene oxide service" for process vents by removing "undiluted" from the mass-based criteria and removing the phrase "anywhere in the process." In the final rule, a process vent in ethylene oxide service means each batch and continuous process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents would emit uncontrolled, ethylene oxide emissions greater than or equal to 5 lb/yr [2.27 kilograms per year (kg/yr)]. In addition, based on comments received on the proposed rulemaking, we are revising the definitions of "batch process vent" and "continuous process vent" in the final rule to clarify that: (1) The existing 50 ppmv HAP and 200 lb/yr uncontrolled HAP emission cut-offs do not apply to batch process vents in ethylene oxide service; and (2) the existing 0.005 weight percent total organic HAP cut-off in 40 CFR 63.107(d) does not apply to continuous process vents in ethylene oxide service.

For storage tanks in ethylene oxide service, we are finalizing a requirement, as proposed, to reduce emissions of ethylene oxide by either (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent; or (2) venting emissions through a closed-vent system to a flare meeting the flare operating requirements discussed in sections IV.A.1 and IV.C.2 of the proposal preamble (84 FR 69182, December 17, 2019). However, based on comments received on the proposed rulemaking, we are revising the proposed definition of "in ethylene oxide service" for storage tanks by revising the concentration of ethylene oxide criteria to a 0.1 percent by weight threshold. In the final rule, a storage tank in ethylene oxide service means a storage tank of any capacity and vapor pressure storing a liquid that is at least 0.1 percent by weight of ethylene oxide. We are also finalizing, as proposed, that the exemptions for "vessels storing organic liquids that contain HAP only as impurities" and "pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere" listed in the definition of "storage tank" at 40 CFR 63.2550(i) do not apply for storage tanks in ethylene oxide service.

Additionally, for both process vents in ethylene oxide service and storage tanks in ethylene oxide service, we are removing the option to allow use of a design evaluation in lieu of performance testing to demonstrate compliance to ensure that the required level of control is achieved, consistent with the proposal. We are also finalizing, as proposed, that after promulgation of the rule, owners or operators that choose to control emissions with a non-flare control device conduct an initial performance test according to 40 CFR 63.997 and 40 CFR 63.2450(g) on each existing control device in ethylene oxide service and on each newly installed control device in ethylene oxide service to verify performance at the required level of control. Subsequently, we are finalizing that owners or operators conduct periodic performance testing on non-flare control devices in ethylene oxide service every 5 years. We are also finalizing the proposed requirement for continuous monitoring of operating parameters for scrubbers used to control emissions from process vents in ethylene oxide service or storage tanks in ethylene oxide service, to ensure that the factors needed for the reaction to occur are met (*i.e.,* liquid-to-gas ratio, pressure drop across the scrubber, liquid feed pressure, liquid temperature, and pH), although we are revising the requirement to set the pressure drop across the scrubber and the liquid feed pressure based on the performance test, and instead, we are allowing the limits on these parameters to be based on the manufacturer's recommendations or engineering analysis. Additionally, we are changing the continuous compliance requirements for the operating parameters, such that compliance with the operating parameter limits is determined on an hourly average basis instead of an instantaneous basis.

For equipment leaks, the EPA is promulgating final amendments for co-proposed equipment leak "Control Option 1" for controlling emissions from MON equipment in ethylene oxide service, except based on comments received on the proposed rulemaking, in lieu of prohibiting PRDs in ethylene oxide service from releasing directly to the atmosphere, we are clarifying in the final rule that these PRDs must comply with the pressure release management work practice standards proposed at 40 CFR 63.2480(e) and (f). We are also clarifying that any release event from PRDs in ethylene oxide service is a deviation of the standard. The EPA is not finalizing co-proposed equipment leak "Control Option 2." As proposed under equipment leak Control Option 1, we are promulgating the following requirements:

- All light liquid pumps in ethylene oxide service be monitored monthly at a leak definition of 1,000 ppm, and when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected;
- the leak repair exemption available for pumps at 40 CFR 63.1026(b)(3), 40 CFR 63.163(c)(3), and 40 CFR 65.107(b)(3) does not apply to equipment in ethylene oxide service; and
- all gas/vapor and light liquid connectors in ethylene oxide service are required to be monitored annually at a leak definition of 500 ppm, and when a leak is detected, be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

Refer to section IV.C.2 of the proposal preamble (84 FR 69182, December 17, 2019) for further discussion of co-proposed Control Option 1.

Section IV.A.3 of this preamble provides a summary of key comments we received regarding the risk review and our responses.

B. What are the final rule amendments based on the technology review for the Miscellaneous Organic Chemical Manufacturing source category?

For process vents, storage tanks, transfer racks, and wastewater streams in this source category, the EPA is finalizing its proposed determination in the technology review that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards. Therefore, we are not finalizing revisions to the MACT standards for these emission sources under CAA section 112(d)(6).

For leaks from equipment not in ethylene oxide service, we determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the MACT standards, consistent with the proposed rule (84 FR 69182, December 17, 2019), to lower the leak definition for pumps in light liquid service (in an MCPU that has no continuous process vents and is part of an existing source) from 10,000 ppmv to 1,000 ppmv with monthly monitoring to comply with the requirements in 40 CFR part 63, subpart H or UU, or 40 CFR part 65, subpart F, and to require initial monitoring for equipment leaks within 30 days after initial startup of new or replaced equipment. However, based on comments received on the proposed rulemaking, we are clarifying in the final rule that the initial monitoring of equipment is only required if the new or replaced equipment is subject to Table 6 to 40 CFR part 63, subpart FFFF, and is also subject to periodic monitoring with EPA Method 21 of appendix A–7 to 40 CFR part 60; and that the initial monitoring does not apply to equipment classified as unsafe-to-monitor or difficult-to-monitor equipment.

For heat exchange systems, we determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the MACT standards, consistent with the proposed rule (84 FR 69182, December 17, 2019), to include revisions to the heat exchange system requirements to require owners or operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or greater. However, based on

comments received on the proposed rulemaking, we are also making some technical clarifications to allow compliance with the Modified El Paso Method using an alternative mass-based leak action level of total strippable hydrocarbon equal to or greater than 0.18 kilograms per hour (instead of the proposed concentration-based leak action level) for small heat exchange systems with a recirculation rate of 10,000 gallons per minute (gpm) or less. We are also finalizing the proposed specification that none of the heat exchange system requirements apply to heat exchange systems that have a maximum cooling water flow rate of 10 gpm or less.

Section IV.B.3 of this preamble provides a summary of key comments we received on the technology review and our responses.

C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) and 112(h) for the Miscellaneous Organic Chemical Manufacturing source category?

Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008) and the December 17, 2019, RTR proposal (84 FR 69182), we are revising monitoring and operational requirements for flares that control ethylene oxide emissions and flares used to control emissions from processes that produce olefins and polyolefins (with the option for an owner or operator of a flare outside of this subset to choose to opt in to the proposed requirements in lieu of complying with the current flare standards) to ensure these flares meet the MACT standards at all times when controlling HAP emissions. However, based on comments received on the proposed rulemaking, we are not finalizing the work practice standard for velocity exceedances for flares operating above their smokeless capacity. We are also clarifying in the final rule that a "flare that controls ethylene oxide emissions" is a flare that controls ethylene oxide emissions from affected sources in ethylene oxide service as defined in 40 CFR 63.2550. In addition, we are clarifying in the final rule that "an MCPU that produces olefins or polyolefins" includes only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product; conversely, by-products and impurities as defined in 40 CFR 63.101, as well as wastes and trace contaminants, are not considered products.

In addition, we are finalizing provisions and clarifications as proposed for periods of SSM and bypasses, including PRD releases; bypass lines on closed vent systems; maintenance activities; and certain gaseous streams routed to a fuel gas system to ensure that CAA section 112 standards apply continuously.

Lastly, based on comments received on the proposed rulemaking, we are finalizing a separate standard for storage vessel degassing for storage vessels subject to the control requirements in Table 4 to 40 CFR part 63, subpart FFFF.

Section IV.C.3 of this preamble provides a summary of key comments we received on the CAA section 112(d)(2) and (3) provisions and our responses.

D. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the MON to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemptions violate the CAA's requirement that some CAA section 112 standards apply at all times. As detailed in section IV.E.1 of the proposal preamble (see 84 FR 69182, December 17, 2019), the MON requires that the standards apply at all times (see 40 CFR 63.2450(a)(2)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). We determined that facilities in this source category can meet the applicable MACT standards at all times, including periods of startup and shutdown. As discussed in the proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunction periods where feasible. Where appropriate, and as discussed in section III.C of this preamble, we are also finalizing alternative standards for certain emission points during periods of SSM to ensure a CAA section 112 standard applies "at all times." Other than for those specific emission points discussed in section III.C of this preamble, the EPA determined that no additional standards are needed to address emissions during periods of SSM. We determined that facilities in this source category can meet the applicable MACT standards at all times, including periods of startup and shutdown.

We are finalizing revisions to the General Provisions table (Table 12 to 40 CFR part 63, subpart FFFF) to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction. Finally, we are finalizing our proposal to revise reporting and recordkeeping requirements for deviations as they relate to exemptions for periods of SSM. As discussed in section IV.E.1 of the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.2450(a)(2) that the standards apply at all times. We are also finalizing, as proposed, a revision to the performance testing requirements. The final performance testing provisions prohibit performance testing during SSM because these conditions are not representative of normal operating conditions. The final rule also requires, as proposed, that operators maintain records to document that operating conditions during the test represent normal operations.

The legal rationale and detailed revisions for SSM periods that we are finalizing here are set forth in the proposal preamble (84 FR 69224–69227, December 17, 2019). Also, based on comments received during the public comment period, we are revising specific references listed in 40 CFR 63.2450(e)(4), 40 CFR 63.2480(f), and 40 CFR 63.2485(p) and (q) to sufficiently address the SSM exemption provisions from subparts referenced by the MON (*e.g.,* the MON references 40 CFR part 63, subparts F, G, SS, UU, WW, and GGG; and each of these referenced subparts have SSM provisions that we are removing in 40 CFR 63.2450(e)(4), 40 CFR 63.2480(f), and 40 CFR 63.2485(p) and (q) for owners or operators that must comply with the MON). In other words, in addition to what we proposed, we are also clarifying that the certain referenced provisions do not apply when demonstrating compliance with the MACT standards, such as phrases like "other than a start-up, shutdown, or malfunction" in the recordkeeping and reporting requirements of 40 CFR part 63, subparts SS and UU. We are also not removing as proposed the term "breakdowns" in 40 CFR 63.998(b)(2)(i) as we determined based on a public comment that removing the term is unnecessary and could result in inaccurate calculation of parameter values. Finally, we are also not

removing 40 CFR 63.998(d)(1)(ii) in its entirety as proposed because we determined based on a public comment received that these records are used to demonstrate compliance with the bypass provisions and do not apply to SSM. As discussed in section III.C of this preamble, we are also finalizing alternative standards for certain emission points (*i.e.,* emergency flaring, PRDs, maintenance activities, and tank degassing) during periods of SSM to ensure a CAA section 112 standard applies ''at all times.''

Section IV.D.3 of this preamble provides a summary of key comments we received on the SSM provisions and our responses.

E. What other changes have been made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other NESHAP requirements. We describe these revisions in this section as well as other proposed provisions that have changed since proposal.

1. Electronic Reporting

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners or operators of MON facilities submit electronic copies of certain required flare management plans (being finalized at 40 CFR 63.2450(e)(5)(iv)), compliance reports (being finalized at 40 CFR 63.2520(e)), performance test reports (being finalized at 40 CFR 63.2520(f)), and performance evaluation reports (being finalized at 40 CFR 63.2520(g)) through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [3] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous emissions monitoring systems (CEMS) measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT. For compliance reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the template for these reports will be located on the CEDRI website.[4] The final rule requires that flare management plans be submitted as a PDF upload in CEDRI. In addition, in the final rule, we are correcting an error to clarify that compliance reports must be submitted electronically (*i.e.,* through the EPA's CDX using the appropriate electronic report template for this subpart) beginning August 12, 2023, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later. Furthermore, we are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim.

For a more detailed discussion of these final amendments to the MON, see section IV.E.2.b of the proposal preamble (84 FR 69227, December 17, 2019), as well as section VI.C below on compliance with the Paperwork Reduction Act. For a more thorough discussion of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0169).

2. Monitoring for Adsorbers That Cannot Be Regenerated and Regenerative Adsorbers That Are Regenerated Offsite

We are finalizing requirements at 40 CFR 63.2450(e)(7), as proposed, for owners or operators using adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite to use dual (two or more) adsorbent beds in series and conduct monitoring of HAP or total organic compound (TOC) on the outlet of the first adsorber bed in series using a sample port and a portable analyzer or chromatographic analysis. However, we are revising the proposed rule text in this final action to reduce the monitoring frequency in response to public comments. In the final rule, owners or operators will establish the estimated bed life from a design evaluation of the adsorber. The monitoring frequency increases as the remaining bed life decreases. Owners or operators will monitor monthly when remaining bed life is more than 2 months, weekly when remaining bed life is between 2 months and 2 weeks, and daily when remaining bed life is less than 2 weeks.

3. Exemptions for Heat Exchange Systems

To correct a disconnect between having a National Pollutant Discharge Elimination System (NPDES) permit that meets certain allowable discharge limits at the discharge point of a facility (*e.g.,* outfall) and being able to adequately identify a leak, we are finalizing, as proposed, the removal of certain exemptions for once-through heat exchange systems to comply with cooling water monitoring requirements.[5] However, as discussed further in the response to comment document for this rulemaking, we are adding back in exemptions originating from 40 CFR 63.104(a)(1), (2), (5), and (6) that were inadvertently removed in the proposed rule.

4. Minor Clarifications and Corrections

We are finalizing all of the revisions that we proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 11 of the proposal preamble. See 84 FR 69228, December 17, 2019. We are also including several additional minor clarifying edits in the final rule based on comments received during the public comment period. We did not receive many substantive comments on these other amendments in the Miscellaneous Organic Chemical Manufacturing RTR proposal. The comments and our specific responses to these items can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

[3] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[4] *https://www.epa.gov/electronic-reporting-air-emissions/cedri.*

[5] Cooling water from a once-through heat exchange system at a petrochemical plant can be mixed with other sources of water (*e.g.,* cooling water used in once-through heat exchange systems in other source categories, stormwater, treated wastewater, etc.) in sewers, trenches, and ponds prior to discharge from the plant. If this point of discharge from the plant is into a ''water of the United States,'' then the facility is required to have a NPDES permit and to meet certain pollutant discharge limits.

F. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on August 12, 2020. New affected sources that commenced construction or reconstruction after December 17, 2019 must comply with all of the standards immediately upon the effective date of the standard, or upon startup, whichever is later.

Existing sources and new affected sources that commenced construction or reconstruction after April 4, 2002, and on or before December 17, 2019, must comply with the amended standards according to the following compliance schedules, with two exceptions: (1) We are revising the General Provisions applicability table (Table 12 to 40 CFR part 63, subpart FFFF) to clarify that for all affected sources, the SSM exemptions contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1) do not apply given the Court vacatur in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008); and (2) electronic reporting of performance test reports and performance evaluations are required, as proposed, upon startup or no later than 60 days after the effective date of the final rule, whichever is later.

- Upon initial startup or on August 12, 2023, whichever is later, for the following amendments: (1) The amendments specified in 40 CFR 63.2445(g), which include all amendments finalized under CAA sections 112(d)(2) and (3) and the heat exchange systems amendments finalized under CAA section 112(d)(6); (2) the amendments related to SSM at 40 CFR 63.2420(e)(4) and 63.2525(j); and (3) the amendments related to electronic reporting of flare management plans at 40 CFR 63.2450(e)(5)(iii) and compliance reports.
- Upon initial startup or on August 12, 2021, whichever is later, for the amendments specified in 40 CFR 63.2445(h), which include the amendments finalized under CAA section 112(d)(6) for equipment leaks (*i.e.,* pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source).
- Upon initial startup or on August 12, 2022, whichever is later, for the amendments specified in 40 CFR 63.2445(i), which include amendments finalized under CAA section 112(f) for process vents, storage tanks, and equipment that are in ethylene oxide service.

Except for the compliance schedule for the SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1) as previously described in this section of the preamble, these compliance schedules have not changed from proposal. However, we are correcting a typographical error to include the word "on" in the phrase "upon initial startup or on" of each schedule. We provide a summary in this section of our rationale for the compliance schedule being finalized for existing sources and new affected sources that commenced construction or reconstruction after April 4, 2002, and on or before December 17, 2019. Refer to section IV.F of the proposal preamble (84 FR 69182, December 17, 2019) for additional detail regarding our rationale for the compliance schedules being finalized, with the exception of the compliance schedule for the amendments finalized under CAA section 112(d)(6) for equipment leaks, which is discussed below. We received comments both in support of and in opposition to the proposed compliance schedules. Most commenters generally supported the proposed compliance schedules and said that owners or operators would need a significant period of time to comply with the proposed revisions. Only one commenter objected to the proposed compliance schedules, and primarily argued against the proposed 2-year compliance delay for the amendments made under CAA section 112(f) (for process vents, storage tanks, and equipment that are in ethylene oxide service). Summaries of these comments and the EPA's responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

CAA section 112(i) provides that the compliance date shall be as expeditious as practicable, but no later than 3 years after the effective date of the standard. In determining what compliance period is as expeditious as practicable, we consider the amount of time needed to plan and construct projects and change operating procedures. For all amendments being finalized under CAA sections 112(d)(2) and (3), the heat exchange systems amendments being finalized under CAA section 112(d)(6), the amendments related to SSM (except for the SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1) as previously described in this section of the preamble), and electronic reporting of flare management plans and compliance reports, we determined that sources will require up to 3 years after August 12, 2020 to comply with the requirements for the following reasons:

- The operating and monitoring requirements for flares being finalized under CAA sections 112(d)(2) and (3) will require the installation of new flare monitoring equipment and likely a new control system to monitor and adjust assist gas addition rates, which will require the flare to be taken out of service and may require a significant portion of the MCPU to be shutdown.
- The work practice standards for atmospheric PRDs in organic HAP service being finalized under CAA sections 112(d)(2) and (3) will necessitate sources to identify the most appropriate preventive measures or control approach; design, install, and test the system; install necessary process instrumentation and safety systems; and may need to time installations with equipment shutdown or maintenance outages.
- The vent control requirements for bypasses being finalized under CAA sections 112(d)(2) and (3) will require the addition of piping and potentially new controls, which will likely be routed to the flare, such that these bypass modifications will need to be coordinated with the installation of the new monitoring equipment for the flares.
- The heat exchange system amendments being finalized under CAA section 112(d)(6) will require engineering evaluations, solicitation and review of vendor quotes, contracting and installation of monitoring equipment, operator training, and updating standard operating procedures.
- The removal of the exemptions from the requirements to meet the standard during SSM periods and the addition of electronic reporting will necessitate reading and understanding these new requirements, evaluation of operations to ensure that they can meet the standards during periods of startup and shutdown, making necessary adjustments to standard operating procedures, and converting reporting mechanisms to install necessary hardware and software. In sum, considering the timeframe needed to come into compliance with all of the removed exemptions in this final rule (which in certain cases, will require installation of complex equipment and system changes for flares), the EPA considers a period of 3 years after the effective date of the final rule to be the most expeditious compliance period practicable.

For the equipment leak amendments being finalized under CAA section 112(d)(6), for pumps in light liquid service (in an MCPU that has no continuous process vents and is part of an existing source), we determined that sources will require up to 1 year after August 12, 2020 because, while the

change to lower the leak definition can be implemented relatively quickly as it requires no additional equipment, it will still require changes to a facilities monitoring program and coordination in monitoring schedules, changes to recordkeeping activities and electronic databases, and changes to reporting forms.

For all amendments being finalized under CAA section 112(f) for process vents in ethylene oxide service, storage tanks in ethylene oxide service, and equipment in ethylene oxide service, we determined that sources will require up to 2 years after August 12, 2020 to comply with the requirements to allow time to plan, purchase, and install equipment for ethylene oxide control. For example, for process vents, if the affected source cannot demonstrate 99.9-percent control of ethylene oxide emissions or reduce ethylene oxide emissions to less than 1 ppmv (from each process vent) or 5 lb/yr (for all combined process vents), then a new control system will need to be installed. Sufficient time will be needed to properly engineer the project, obtain capital authorization and funding, procure the equipment, construct and start-up the equipment, prepare for the initial performance test, set up new software, and develop operating procedures.

IV. What is the rationale for our final decisions and amendments for the Miscellaneous Organic Chemical Manufacturing source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket for this rulemaking.

A. Residual Risk Review for the Miscellaneous Organic Chemical Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(f) for the Miscellaneous Organic Chemical Manufacturing source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the December 17, 2019, proposed rule for 40 CFR part 63, subpart FFFF (84 FR 69182). The results of the risk assessment for the proposal are presented briefly in Table 2 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0011).

TABLE 2—MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING SOURCE CATEGORY RISK ASSESSMENT RESULTS IN PROPOSAL

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer [2]		Estimated annual cancer incidence (cases per year) [2]	Maximum chronic noncancer TOSHI [2]	Maximum screening acute noncancer HQ
		>100-in-1 million	≥1-in-1 million			
194	2,000	18,000	2,900,000	0.4	1	HQ_{REL} = 6 (acrolein).

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

The results of the proposed chronic baseline inhalation cancer risk assessment at proposal indicated that, based on estimates of current actual and allowable emissions, the MIR posed by the source category was 2,000-in-1 million driven by ethylene oxide emissions from storage tanks (75 percent), equipment leaks (15 percent), and process vents (8 percent). At proposal, the total estimated cancer incidence from this source category was estimated to be 0.4 excess cancer cases per year, or one case in every 2.5 years. Approximately 2.9 million people were estimated to have cancer risks above 1-in-1 million from HAP emitted from the facilities in this source category. At proposal, the estimated maximum chronic noncancer target organ-specific hazard index (TOSHI) for the source category was 1, indicating low likelihood of adverse noncancer effects from long-term inhalation exposures.

As shown in Table 2 of this preamble, the worst-case acute hazard quotient (HQ) (based on the reference exposure level (REL)) at proposal was 6 based on the REL for acrolein (the next highest dose-response value for acrolein, the acute exposure guideline level–1 (AEGL–1), results in an HQ of 0.2). There were 11 additional instances of acute HQs greater than 1 from the source category. In addition, at proposal, the multipathway risk screening assessment resulted in a maximum Tier 2 cancer screening value (SV) of 10 for polycyclic organic matter (POM) for the farmer scenario. The Tier 2 SVs for all other HAP known to be persistent and bio-accumulative in the environment (PB–HAP) emitted from the source category (mercury compounds, cadmium compounds, and arsenic compounds) were less than 1. The Tier 2 cancer SV for POM means that the maximum cancer risk from exposure to POM emissions through ingestion of farm products is less than 10-in-1 million. At proposal, no site-specific assessment using TRIM.FaTE (which incorporates AERMOD deposition, enhanced soil/water run-off calculations, and model boundary identification) or Tier 3 screening assessment was deemed necessary due to the conservative nature of the Tier 2 screen and the hypothetical construct of the farmer scenario. Also, at proposal, the highest annual average lead concentration of 0.0006 micrograms per cubic meter was well below the National Ambient Air Quality Standards for lead, indicating low potential for multipathway risk of concern due to lead emissions.

At proposal, the maximum lifetime individual cancer risk posed by the 194 modeled facilities, based on whole facility emissions, was 3,000-in-1 million, with ethylene oxide emissions from fugitive emissions and flares from the Synthetic Organic Chemical

Manufacturing, Polyether Polyols Production, and Miscellaneous Organic Chemical Manufacturing source categories driving the risk. Regarding the noncancer risk assessment, the maximum chronic noncancer hazard index (HI) posed by whole facility emissions was estimated to be 7 (for the respiratory system as the target organ), driven by emissions of chlorine and methyl bromide from non-source category sources identified as brominated organic manufacturing.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the risks posed by this source category under the current MACT provisions are unacceptable (section IV.C of the proposal preamble, 84 FR 69182, December 17, 2019). At proposal, we identified ethylene oxide as the driver of the unacceptable risk and evaluated several options to control ethylene oxide emissions from (1) process vents, (2) storage tanks, and (3) equipment ''in ethylene oxide service.'' For process vents, we proposed to define ''in ethylene oxide service'' to mean that each batch and continuous process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents would emit uncontrolled, undiluted ethylene oxide emissions greater than or equal to 5 lb/yr (2.27 kg/yr). For storage tanks of any capacity and vapor pressure, we proposed to define ''in ethylene oxide service'' to mean that the concentration of ethylene oxide of the stored liquid is greater than or equal to 1 ppmw. We proposed that the exemptions for ''vessels storing organic liquids that contain HAP only as impurities'' and ''pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere'' listed in the definition of ''storage tank'' at 40 CFR 63.2550(i) do not apply for storage tanks in ethylene oxide service. For the ethylene oxide equipment leak provisions, we proposed to define ''in ethylene oxide service'' to mean any equipment that contains or contacts a fluid (liquid or gas) that is at least 0.1 percent by weight of ethylene oxide.

To reduce risks from process vents in ethylene oxide service, we proposed requirements at 40 CFR 63.2493 to reduce emissions of ethylene oxide by either (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 5 lb/yr for all combined process vents; or (2) venting emissions through a closed-vent system to a flare meeting the flare operating requirements discussed in section IV.A.1 of the proposal preamble (84 FR 69182, December 17, 2019).

To reduce risks from storage tanks in ethylene oxide service, we proposed a requirement at 40 CFR 63.2493 to reduce emissions of ethylene oxide by either (1) venting emissions through a closed-vent system to a control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage tank vent; or (2) venting emissions through a closed-vent system to a flare meeting the flare operating requirements discussed in section IV.A.1 of the proposal preamble (84 FR 69182, December 17, 2019).

To reduce risks from equipment leaks in ethylene oxide service, we co-proposed two control options at 40 CFR 63.2493 (see Table 6 of the proposal preamble, 84 FR 69182, December 17, 2019). In equipment leak co-proposed Control Option 1, we proposed that all light liquid pumps in ethylene oxide service be monitored monthly at a leak definition of 1,000 ppm, and when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. Additionally, under co-proposed Control Option 1, we proposed that the leak repair exemption available for pumps at 40 CFR 63.1026(b)(3), 40 CFR 63.163(c)(3), and 40 CFR 65.107(b)(3) would not apply to equipment in ethylene oxide service. Also, as part of co-proposed Control Option 1, we proposed that all gas/vapor and light liquid connectors in ethylene oxide service be monitored annually at a leak definition of 500 ppm, and when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected. In equipment leak co-proposed Control Option 2, we proposed that more stringent equipment leak standards would apply to two facilities with a MIR greater than 100-in-1 million (*i.e.,* Lanxess Corporation and Huntsman Performance). For these two facilities, at proposal, light liquid pumps in ethylene oxide service would be required to be leakless (*i.e.,* have zero emissions) and monitored annually to verify there are no emissions; and gas and light liquid valves in ethylene oxide service would be required to either be leakless and monitored annually or not be leakless and be monitored quarterly. For these two facilities, at proposal, light liquid pumps and gas and light liquid valves in ethylene oxide service would be considered leaking if an instrument reading above background is found; and connectors in ethylene oxide service would be monitored monthly at a leak definition of 100 ppm. We proposed that when a leak is detected, it be repaired as soon as practicable, but not later than 15 calendar days after it is detected, and a first attempt at repair be made no later than 5 calendar days after the leak is detected. As part of co-proposed Control Option 2, we proposed all other facilities with MON equipment in ethylene oxide service would be subject to the standards previously described in equipment leak co-proposed Control Option 1.

After implementation of the proposed controls for process vents and storage tanks at MON facilities emitting ethylene oxide, as well as implementation of either of the co-proposed control options for equipment leaks, we proposed that the resulting risks would be acceptable for this source category. We also acknowledged at proposal that estimated post-control risks would be greater than 100-in-1 million (*i.e.,* 200- to 300-in-1 million) and determined that, due to the inherent health protective nature of our risk assessment methods and certain uncertainties,[6] the proposed risk assessment is more likely to overestimate rather than underestimate the risks (see section IV.C.3 of the proposal preamble, 84 FR 69182, December 17, 2019). In our proposal, we presented the risk impacts using health risk measures and information, including the MIR, cancer incidence, population exposed to cancer risks greater than 100-in-1 million, and associated uncertainty in emissions estimates after incremental application of the proposed options to control ethylene oxide emissions from (1) process vents, (2) storage tanks, and (3) equipment in ethylene oxide service (see Table 7 of the proposal preamble, 84 FR 69182, December 17, 2019). At proposal, we determined application of the ethylene oxide-specific controls for process vents and storage tanks would reduce ethylene oxide emissions by an estimated 89 percent for the source category, and the estimated MIR would be reduced from 2,000-in-1 million to 400-in-1 million at Lanxess Corporation, and the next highest estimated MIR would be 300-in-1 million at Huntsman Performance. In both cases, we determined that the remaining risk

[6] Uncertainties regarding the equipment leak emissions, the uncertainties inherent in all risk assessments (*i.e.,* the emissions dataset, dispersion modeling, exposure estimates, and dose-response relationships), and the EPA's use of the 2016 unit risk estimate (URE) for ethylene oxide (which is developed to be health protective).

would be primarily from equipment leak emissions of ethylene oxide. Subsequent application of equipment leak co-proposed Control Option 1 would further reduce ethylene oxide emissions by 4 percent, for a total estimated 93-percent reduction in ethylene oxide emissions for the source category, with the MIR at Lanxess Corporation being further reduced to 200-in-1 million and the MIR at Huntsman Performance remaining at 300-in-1 million. Alternatively, subsequent application of equipment leak co-proposed Control Option 2 (instead of Control Option 1) would reduce ethylene oxide emissions by a total estimated 94-percent for the source category, with the MIR at Lanxess Corporation being further reduced to 100-in-1 million and the MIR at Huntsman Performance being reduced to 200-in-1 million.

At proposal, we requested comments on the use of the 2016 updated URE [7] for ethylene oxide for regulatory purposes beyond those already received for the Hydrochloric Acid (HCl) Production RTR proposed rule (84 FR 1584–1597, February 4, 2019), as well as comments on the use of an alternative URE for ethylene oxide in the final rule for this source category. We also solicited comment on which of the two ethylene oxide equipment leak co-proposed control options should be implemented in the final rulemaking in order to ensure that risks from the source category are acceptable.

We then considered whether the existing MACT standards provide an ample margin of safety to protect public health and whether, taking into consideration costs, energy, safety, and other relevant factors, and whether additional standards are required to prevent an adverse environmental effect. To determine whether the rule provides an ample margin of safety, we considered the requirements that we proposed to achieve acceptable risks. We also considered implementing equipment leak co-proposed Control Option 2, which would require that the two facilities with estimated cancer risks greater than 100-in-1 million comply with more stringent standards. In addition, we considered expanding the applicability of equipment leak co-proposed Control Option 2 so that the more stringent controls would apply to all facilities with equipment in ethylene oxide service, regardless of estimated cancer risks. Finally, we considered the options identified in the technology review (*i.e.,* controls for equipment leaks for MON equipment not in ethylene oxide service and heat exchange systems). In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also examined the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Based on these considerations, we proposed that the requirements that we proposed to achieve acceptable risks would also provide an ample margin of safety to protect public health (section IV.C.4 of the proposal preamble, 84 FR 69182, December 17, 2019). We also solicited comment on which of the available control options should be applied in order to provide an ample margin of safety to protect public health.

2. How did the risk review change for the Miscellaneous Organic Chemical Manufacturing source category?

a. Miscellaneous Organic Chemical Manufacturing Source Category Risk Assessment

As part of the final risk assessment, the EPA reanalyzed risks using emissions inventory updates that were received from a CAA section 114 request issued to the highest risk facility, and additional information received from the two highest risk facilities during the public comment period. These updates were primarily reductions to emissions of ethylene oxide and included revised actual emissions for two facilities and allowable emissions for one facility. The revised emissions used to reanalyze risks are available in the docket for this rulemaking (see section IV.A.3.b of this preamble and Appendix 1 of the *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket for this rulemaking, for more detail about these revised emissions).

Based on the revised actual emission estimates, the results of the chronic inhalation cancer risk from the revised risk assessment indicate that the maximum lifetime individual cancer risk posed by the 194 facilities could be as high as 400-in-1 million, with ethylene oxide from process vents and equipment leaks as the major contributors to the risk. Specifically, the revised baseline cancer risk is reduced to 400-in-1 million for the Lanxess facility, and to less than 100-in-1 million for Huntsman Performance. The total estimated cancer incidence from the revised risk assessment is 0.1 excess cancer cases per year, or one excess case in every 10 years. Of the approximately 89,000,000 people that live within 50 kilometers (km) of the 194 facilities, 1,700,000 people were estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted from the facilities in this source category. Approximately 46,000 people were estimated to have cancer risks greater than or equal to 10-in-1 million, and 1,200 people were estimated to have cancer risks greater than or equal to 100-in-1 million. Of those 1,200 people, approximately 860 are estimated to have cancer risks greater than 100-in-1 million (Table 3 of this preamble).

The estimated maximum chronic noncancer TOSHI for the source category remained unchanged from the proposal at 1, indicating low likelihood of adverse noncancer effects from long-term inhalation exposures. Additionally, the worst-case acute HQ (based on the REL) remained unchanged from proposal (6 based on the REL for acrolein and the next highest dose-response value for acrolein, the AEGL–1, results in an HQ of 0.2). Similarly, the multipathway risk screening assessment remained unchanged from proposal and resulted in a maximum Tier 2 cancer SV of 10 for POM for the farmer scenario. The Tier 2 SVs for all other PB–HAP emitted from the source category (mercury compounds, cadmium compounds, and arsenic compounds) were less than 1.

Whole facility risks also did not change from those at proposal based on revised emission estimates. The maximum lifetime individual cancer risk based on whole facility emissions was 3,000-in-1 million driven by ethylene oxide emissions from fugitive emissions and flares from the Synthetic Organic Chemical Manufacturing, Polyether Polyols Production, and Miscellaneous Organic Chemical Manufacturing source categories. The

[7] The URE is an upper-bound estimate of an individual's incremental risk of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate. The pollutant-specific dose-response values used to estimate cancer health risk are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

maximum chronic noncancer HI posed by whole facility emissions was estimated to be 7 (for the respiratory system as the target organ), driven by emissions of chlorine and methyl bromide from non-source category sources identified as brominated organic manufacturing.

Based on revised allowable emission estimates, the maximum lifetime individual cancer risk could be as high as 800-in-1 million, with ethylene oxide from storage tanks, process vents, and equipment leaks driving the risk. The total estimated cancer incidence is 0.2 excess cancer cases per year, or 1 excess case in every 5 years. Approximately 2,000,000 people were estimated to have cancer risks greater than or equal to 1-in-1 million from allowable emissions, approximately 170,000 were estimated to have cancer risks greater than or equal to 10-in-1 million, and 4,200 people were estimated to have cancer risks greater than or equal to 100-in-1 million. Of those 4,200 people, approximately 1,700 are estimated to have cancer risks greater than 100-in-1 million (Table 3 of this preamble).

TABLE 3—MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING SOURCE CATEGORY RISK ASSESSMENT RESULTS BASED ON REVISED EMISSIONS IN FINAL RULE

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer [2]		Estimated annual cancer incidence (cases per year) [2]	Maximum chronic noncancer TOSHI [2]	Maximum screening acute noncancer HQ
		>100-in-1 million	≥1-in-1 million			
Actual Emissions						
194	400	860	1,700,000	0.1	1	HQ_{REL} = 6 (acrolein).
Allowable Emissions						
194	800	1,700	2,000,000	0.2	1	

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Actual emissions equal allowable emissions with the exception of one facility, where additional information was available.

Finally, risks were estimated after application of the controls finalized in this rulemaking for storage tanks, process vents, and equipment in ethylene oxide service, in addition to controls that apply to all HAP and were identified during the technology review (controls for heat exchangers and equipment leaks for MON equipment not in ethylene oxide service). Based on these controls, we estimated that the baseline cancer MIR of 400-in-1 million would be reduced to 200-in-1 million for actual emissions, with ethylene oxide from equipment leaks driving the risk. There would be 107 people estimated to have a cancer risk greater than 100-in-1 million, down from 860 people in the baseline scenario. There is an estimated reduction in cancer incidence to 0.09 excess cancer cases per year (or one excess case every 11 years), down from 0.1 excess cancer cases per year (or one excess cancer case every 10 years) in the baseline scenario. In addition, the number of people estimated to have a cancer risk greater than or equal to 1-in-1 million would be reduced from 1,700,000 to 1,400,000 (Table 4 of this preamble).

For allowable emissions, we estimated that the baseline cancer MIR of 800-in-1 million would be reduced to 200-in-1 million, with ethylene oxide from equipment leaks driving the risk. There would be 115 people estimated to have a cancer risk greater than 100-in-1 million, down from 1,700 people in the baseline scenario. There is an estimated reduction in cancer incidence to 0.09 excess cancer cases per year (or one excess case every 11 years), down from 0.2 excess cancer cases per year (or one excess cancer case every 5 years) in the baseline scenario. In addition, the number of people estimated to have a cancer risk greater than or equal to 1-in-1 million would be reduced from 2,000,000 to 1,400,000 (Table 4 of this preamble).

TABLE 4—BASELINE AND POST-CONTROL RISK SUMMARY FOR THE MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING SOURCE CATEGORY BASED ON REVISED EMISSIONS IN FINAL RULE

	Inhalation cancer risk		Population cancer risk		
	Maximum individual risk (in 1 million)	Risk driver	Cancer incidence (cases per year)	>100-in-1 million	≥1-in-1 million
Actual Emissions					
Baseline Risk	400	ethylene oxide	0.1	860	1,700,000
Post-control Risk	200	ethylene oxide	0.09	107	1,400,000
Allowable emissions					
Baseline Risk	800	ethylene oxide	0.2	1,700	2,000,000
Post-control Risk	200	ethylene oxide	0.09	115	1,400,000

We continue to find that the revised risks prior to control are unacceptable, and we are revising the final NESHAP for the Miscellaneous Organic Chemical Manufacturing source category pursuant to CAA section 112(f)(2) on the basis that risks are unacceptable. However, as discussed in sections IV.A.3 and IV.A.4 of this preamble, we find that, after implementation of the controls finalized in this rulemaking, the resulting risks would be acceptable for this source category and achieve an ample margin of safety.

Additional details of the reanalyzed risks can be found in the *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket for this rulemaking.

b. Rule Changes

Based on comments received on the proposed rulemaking, we are revising the proposed definition of "in ethylene oxide service" for process vents by removing "undiluted" from mass-based criteria and removing the phrase "anywhere in the process." In the final rule, a process vent in ethylene oxide service means each batch and continuous process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents would emit uncontrolled, ethylene oxide emissions greater than or equal to 5 lb/yr (2.27 kg/yr). In addition, based on comments received on the proposed rulemaking, we are revising the definitions of "batch process vent" and "continuous process vent" in the final rule to clarify that (1) the existing 50 ppmv HAP and 200 lb/yr uncontrolled HAP emission cut-offs do not apply to batch process vents in ethylene oxide service; and (2) the existing 0.005 weight percent total organic HAP cut-off in 40 CFR 63.107(d) does not apply to continuous process vents in ethylene oxide service.

Based on comments received on the proposed rulemaking, we are also revising the proposed definition of "in ethylene oxide service" for storage tanks by revising the concentration of ethylene oxide criteria to a 0.1 percent by weight threshold. In the final rule, a storage tank in ethylene oxide service means a storage tank of any capacity and vapor pressure storing a liquid that is at least 0.1 percent by weight of ethylene oxide.

For equipment leaks in ethylene oxide service, we are finalizing the co-proposed equipment leak "Control Option 1." We are not promulgating final amendments for co-proposed equipment leak "Control Option 2."

Finally, based on comments received on the proposed rulemaking, we are also revising some of the continuous monitoring requirements for operating parameters for scrubbers used to control emissions from process vents in ethylene oxide service or storage tanks in ethylene oxide service. In the final rule, we are allowing the limits for the pressure drop across the scrubber and the liquid feed pressure to the scrubber to be based on the manufacturer's recommendations or engineering analysis instead of on the performance test. Additionally, we are changing the continuous compliance requirements for the operating parameters, such that compliance with the operating parameter limits is determined on an hourly average basis instead of an instantaneous basis.

3. What key comments did we receive on the risk review, and what are our responses?

This section provides comment summaries and responses for the key comments received regarding the ethylene oxide IRIS URE, including those received for the HCl Production RTR proposed rule (84 FR 1584–1597, February 4, 2019), and our risk assessment for the Miscellaneous Organic Chemical Manufacturing source category, our proposed definition of "in ethylene oxide service," proposed requirements for storage tanks and process vents in ethylene oxide service, and proposed requirements for equipment leaks in ethylene oxide service. We received comments in support of and against the proposed residual risk review, the IRIS URE used in the review, the American Chemistry Council's (ACC's) request for correction under the Information Quality Act asking that the "NATA risk estimates for E.O.[8] should be withdrawn and corrected to reflect scientifically supportable risk values," and our determination that additional controls were warranted under CAA section 112(f)(2) for the Miscellaneous Organic Chemical Manufacturing source category. Other comments on these issues, as well as on additional issues regarding the residual risk review and the EPA's proposed changes based on the residual risk review, can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

a. Ethylene Oxide IRIS URE

In the MON RTR proposed rule (84 FR 69182, December 17, 2019), as well as the HCl Production RTR proposed rule (84 FR 1584, February 4, 2019), we requested comment on the use of the updated ethylene oxide URE for regulatory purposes. Also, in the proposed rulemaking for the Miscellaneous Organic Chemical Manufacturing source category, we noted the ACC's request for correction under the Information Quality Act asking that the "NATA risk estimates for E.O. should be withdrawn and corrected to reflect scientifically supportable risk values." Several commenters provided comments on these two topic areas as summarized below:

Comment: We received extensive comments on use of the EPA ethylene oxide URE. Some commenters were in support of the continued use of the EPA URE and other commenters recommended changes to aspects of the EPA URE or recommended use of an alternative to the EPA URE. Many of the commenters recommending changes to the EPA URE focused on aspects of dose-response modeling that could affect the value of the EPA URE, including model selection, inclusion of breast cancer data, cohort selection, and historical exposure estimates. Other comments evaluated the biological plausibility of the EPA URE, including considerations of endogenous and ambient background ethylene oxide levels and mortality predictions. In some cases, commenters submitted analyses of existing data, including recent publications (*e.g.,* Marsh et al. 2019; Bogen et al. 2019; Kirman and Hays 2017). In addition, the Texas Commission on Environmental Quality (TCEQ) submitted their draft cancer dose-response assessment for ethylene oxide to the EPA for consideration as an alternative to the EPA URE for ethylene oxide.

Response: A number of comments received on aspects of dose-response modeling largely touch on matters that were identified and discussed as part of the peer and public review processes for the EPA IRIS ethylene oxide Assessment, and the Agency considered those comments in the development of the final IRIS ethylene oxide Assessment.[9] The prior comments and responses are documented in the

[8] In this instance, "E.O." refers to "ethylene oxide."

[9] *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide (EtO),* EPA/635/R–16/350fa. Available at *https://cfpub.epa.gov/ncea/iris_drafts/recordisplay.cfm?deid=329730.*

Appendices of the EPA 2016 IRIS ethylene oxide assessment [10] and are therefore addressed here by referencing the existing IRIS responses. For some of these topics, additional comments were submitted that either augment previous comments or address specific details of the final IRIS dose-response model that were not addressed during the peer-review process. For example, additional comments were submitted on pre-1978 exposure estimates and statistical evaluation of the dose-response model selected for lymphoid cancer. Additional detailed responses to these topics are provided in the response to comment document for this rulemaking.

Several public comments referred to recent analyses of existing data, including publications that focus on different aspects of ethylene oxide assessment such as weight of evidence for breast cancer (Marsh et al. 2019), estimates of ethylene oxide levels produced in our bodies (Kirman and Hays 2017), and evaluation of historical occupational exposure estimates (Bogen et al. 2019). As we detail in the response to comment document, consideration of these individual analyses did not prompt the Agency to pursue reassessment of the EPA's IRIS ethylene oxide Assessment for purposes of this rulemaking. For example, Marsh et al. analyzed breast cancer mortality and focused on comparing cancers seen in occupational groups with national or regional average rates; whereas, the EPA has generally focused on studies of breast cancer incidence since many women survive breast cancer.[11] With regard to the amount of ethylene oxide produced within the human body, Kirman and Hays did not include any direct measurements of endogenous ethylene oxide levels; however, they did measure a particular by-product (an adduct—chemical reaction product—with the protein hemoglobin) that could be associated with total ambient exposure (including both endogenous and ambient background) among non-occupationally exposed individuals. While studies of the hemoglobin adduct found it to be a useful marker for high level occupational exposures to ethylene oxide, there are many uncertainties in attempting to use this product as a direct measure of ambient background or endogenous levels of ethylene oxide in the body. Further, because the IRIS URE for ethylene oxide represents the increased cancer risk due to exposure to ethylene oxide emissions above endogenous ethylene oxide and ambient background levels, consideration of the findings of Kirman and Hays or other studies of endogenous or ambient background exposures would not impact the URE. The findings of Bogen et al. are discussed further in the response to comment document for this rulemaking.

Though the TCEQ submitted their draft cancer dose-response assessment for ethylene oxide to the EPA as part of the public comment process, the assessment had not yet undergone peer review, and the TCEQ dose-response value had not yet been finalized by the close of the public comment period for this rulemaking, which closed on March 19, 2020.[12] Therefore, the TCEQ dose-response value could not be considered for this rulemaking.

For these reasons, we have decided to continue to use the EPA URE for ethylene oxide for the risk analyses performed for this final rulemaking. As always, the EPA remains open to new and updated scientific information, as well as new dose response values such as the TCEQ value, as they become available.

Comment: Several commenters supported the ACC's request for correction. Other commenters indicated that there was no justification for a correction to the EPA URE for ethylene oxide.

Response: In a letter to the ACC dated December 18, 2019, the then-acting Assistant Administrator for Air and Radiation stated that "[b]ecause EPA received comments from the ACC and others on the HCl proposed rule related to use of information in the 2016 EtO IRIS Assessment," and "given that EPA anticipates receiving additional comments focused on the 2016 EtO IRIS Assessment in the MON RTR rulemaking," the EPA believed at that time that it was "appropriate to address this [request for correction] as part of the MON RTR rulemaking." [13] Having now reviewed and considered the comments it has received, the EPA has determined that it is appropriate to defer providing a final response to the ACC's request at this time. The EPA is under a court ordered deadline requiring signature of the final MON RTR by May 29, 2020, and we have determined that, given the time available and in light of other resource constraints, completing our consideration of the Information Quality Act request for correction in conjunction with taking final action in this rulemaking is not practicable. Accordingly, in order to ensure that the ACC's request for correction is given the complete attention it warrants, we have determined that it is appropriate to issue this final CAA rule separately from the Agency response to the ACC request. We anticipate taking final action on the Information Quality Act request for correction in the near future.

b. MON Risk Assessment

Several commenters provided comments on specific facilities in the EPA risk assessment and submitted additional data for the EPA to use for assessing public health risks. Those comments are as follows:

Comment: One commenter contended that the EPA conducted a CAA section 114 data collection effort on the highest risk facility, Lanxess, but did not use the data at proposal, even though the results of the performance testing were received in September 2019. The commenter disagreed with the EPA's decision that any changes received by September 2018 were incorporated into the RTR modeling file, and after September 2018 and before February 2019, only minor changes related to MON applicability of ethylene oxide emissions were incorporated into the RTR modeling file. Commenters stated that the EPA has significantly overestimated the risks posed by the Lanxess facility and that if the EPA used the most recent and best available data, the Lanxess facility would not be classified as a high-risk site. As justification, the commenters provided new stack test data for Lanxess' two process scrubbers and the storage tank scrubber based on performance tests conducted from June 3 to June 20, 2019. The commenters provided that the preliminary results from the performance tests indicate that the total ethylene oxide emissions from the three scrubbers were significantly less than the initial estimate that was used for the risk analysis and proposed rule.[14] Commenters observed that the

[10] *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide (EtO) Appendices,* EPA/635/R–16/350fb. Available at *https://cfpub.epa.gov/ncea/iris_drafts/recordisplay.cfm?deid=329730.*

[11] *Guidelines for Carcinogen Risk Assessment,* EPA/630/P–03/001F, 2005. Available at: *https://www.epa.gov/sites/production/files/2013-09/documents/cancer_guidelines_final_3-25-05.pdf.*

[12] Note that the final TCEQ assessment was issued on May 15, 2020.

[13] See Letter from Anne L. Idsal, acting Assistant Administrator for Air and Radiation to William P. Gulledge, American Chemistry Council (December 18, 2019). Similarly, in the proposed rulemaking, we took note of the fact that, "[g]iven the ACC's Response for Correction," we had in the earlier HCl Production RTR proposed rule "requested comment on the use of the updated ethylene oxide URE for regulatory purposes." 84 FR 69218 (December 17, 2019). "Because of the robustness of the comment received and their relevance to this rulemaking," we said that the Agency would "consider those comments in the final rule for the Miscellaneous Organic Chemical Manufacturing source category." *Id.*

[14] Commenter referred to Docket Item No. EPA–HQ–OAR–2018–0746–0022.

risk analysis published at proposal did not include this most recent stack test data.

One commenter also objected to the EPA using a different approach to establish baseline emissions for the Lanxess facility as compared with all other MON facilities and objected to the EPA proposing a more stringent control technology standard specifically for this facility based on incomplete data and a different standard from that which was applied to all other facilities. The commenter reiterated that for the Lanxess facility, the EPA disregarded actual 2014 emissions data for storage tanks and process vents and estimated emissions for fugitives using component counts and emission factors, which the EPA acknowledged likely resulted in emission estimates that were biased high. The commenter provided updated information and requested that the facility emissions, like the other MON facilities, be analyzed based on 2014 actual emissions.

Some commenters requested that the EPA update the emission estimate for the site to reflect a control efficiency of 99.9 percent for the ethylene oxide storage tank scrubber and use 2014 actual emissions data, which would establish a 0.0107 tpy baseline for this scrubber. The commenters further asserted that the EPA chose not to use reported 2014 ethylene oxide emissions associated with the two scrubbers that control emissions from the two process vents in ethylene oxide service and instead calculated potential emission rates using the facility's 2012 title V application, which resulted in a modeling input of almost twice the actual emissions and was not consistent with the method the EPA utilized to review risk for the other MON facilities. The commenters requested that the EPA use the reported values contained in the calendar year 2014 emissions inventory for the two process vent scrubbers to establish the baseline for risk. Commenters further contested the EPA's approach to estimating fugitive emissions and emissions from equipment leaks; commenters did not agree with estimating fugitive emissions based on potential emissions in lieu of 2014 actual emissions. Further, the commenters requested that the EPA update the equipment leak source parameters to a volume source versus an area source to better represent equipment leak emissions, and to update the risk inputs to use current equipment counts, composition of ethylene oxide in the streams, the emission factors from Table 6 of the EPA's equipment leak evaluation memorandum, *Analysis of Control Options for Equipment Leaks at Processes that use ethylene oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* and the facility's actual hours of operation in 2014. The commenters also stated that the facility has no light liquid pumps in ethylene oxide service that would be subject to the proposed pump requirements.

Commenters stated that, using the revised emissions estimates and volume source parameters, they re-ran the EPA's risk model and calculated a baseline risk of 270-in-1 million for the Lanxess facility. The commenter stated that using the revised baseline emissions to estimate post-control emissions would result in significant reductions for either Control Option 1 or 2 and provided revised estimates of post-control emissions based on the updated data. The commenter asserted that when the EPA risk model is rerun for the Lanxess facility utilizing all corrected inputs, the residual risk is 100-in-1 million with implementation of Control Option 1.

Response: In light of the additional data and comments received, the EPA has made adjustments to the emissions used in the residual risk assessment in the final rule, and we note that using revised baseline emissions to estimate post-control emissions results in significant reductions for either Control Option 1 or 2. As we acknowledged in the proposal preamble (84 FR 69186, December 17, 2019), although the EPA did not receive the CAA section 114 data from Lanxess in time to be used at proposal, we posted this data publicly to the docket at proposal to provide the public with sufficient time to review the data and provide comments during the comment period. Further, we acknowledged we intended to "use the collected information to assist the Agency in filling data gaps, establishing the baseline emissions and control levels for purposes of the regulatory reviews, identifying the most effective control measures, and estimating the environmental impacts associated with the regulatory options considered and reflected." (84 FR 69186, December 17, 2019). Thus, as has always been our intent, we are revising the residual risk assessment to incorporate the data received in the response to the CAA section 114 request to update Lanxess' emissions in the final rule, which includes updating emissions for the storage tank and process vents to reflect the measured control efficiencies. Additionally, at proposal, the best available data had us assume that "actual" emissions were equal to "allowable" emissions. At final, the data acquired from the CAA section 114 request has allowed us to separately estimate "actual" emissions and "allowable" emissions at Lanxess. Therefore, in the final rule, we present both pre-control and post-control risks for Lanxess considering the range of emissions generated by these two emissions estimations.

Additionally, we are incorporating the updated data for equipment in ethylene oxide service provided during the comment period by Lanxess in the revised risk assessment for the final rule. The updated data include component counts, hours of operation, and percentage of ethylene oxide for each process with equipment in ethylene oxide service. The EPA believes that the updated data represents the best available data because it is more recent and reflects updated component counts and changes made to the process. We considered updating the source parameters for equipment in ethylene oxide service to reflect a volume source as the commenter suggested; however, we ultimately retained the parameters as an area source based on the information already available to the EPA, and after determining such change would have minimal impact on risk. After updating emissions for this facility, the pre-control cancer risks are estimated to be 400-in-1 million (actuals) and 800-in-1 million (allowables). We disagree with the commenter's assertion that pre-control risks are 300-in-1 million based on actual emissions. At proposal and in the commenter's revisions to the modeling file, fugitive ethylene oxide emissions were grouped together and modeled as being released from one location. In their comments, Lanxess provided additional information which made it possible to accurately separate and assign these fugitive ethylene oxide emissions to their actual locations at the facility. In the modeling file for the final rule, we have separated and relocated ethylene oxide fugitive emissions to their proper location, which resulted in a risk higher than what the commenter estimated due to several fugitive areas being in closer proximity to the receptor. Therefore, in the final rule, after considering all updates made to the emissions data for Lanxess, the ethylene oxide emissions at the current level of control (*i.e.,* before the amended controls are applied) are estimated to be approximately 0.64 tpy based on actual emissions and 2.6 tpy based on allowable emissions, compared to 8.8 tpy at proposal. See Appendix 1 of the *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in*

Support of the 2020 Risk and Technology Review Final Rule, available in the docket for this rulemaking, for additional information.

After ethylene oxide-specific controls for process vents, storage tanks, and equipment leak Control Option 1 are applied at Lanxess, ethylene oxide emissions are expected to be reduced to 0.15 tpy based on actual emissions and 0.17 tpy based on allowable emissions. Estimated post-control cancer risks are reduced to 200-in-1 million for both actual and allowable emissions estimates. We disagree with the commenter's assertion that post-control risks at Lanxess after applying controls for process vents, storage tanks, and equipment leak Control Option 1 are 100-in-1 million based on actual emissions, since the commenter did not model fugitive emissions from their actual locations as described above. In addition, Lanxess also provided updated component counts in their comments that we used to update the estimated effect that controls would have in reducing ethylene oxide emissions. These new emission reduction estimates indicate that the revised leak detection and repair (LDAR) requirements for light liquid pumps will have less of an effect in reducing ethylene oxide emissions than estimated at proposal, due to new knowledge that there are no light liquid pumps in ethylene oxide service at Lanxess. After ethylene oxide-specific controls for process vents, storage tanks, and equipment leaks Control Option 2 are applied, and using updated emissions data provided during the comment period, estimated post-control cancer risks are reduced to 100-in-1 million (actuals and allowables).

We note that, after the comment period closed, the EPA met with representatives from Lanxess on March 25, 2020, to discuss their comments posted to the docket on February 20, 2020, (see Docket Item No. EPA–HQ–OAR–2018–0746–0069) and ask clarifying questions. Subsequently, Lanxess provided written responses to these questions on April 17, 2020, as well as additional updates to their February comments that included further revisions to emissions data, which would affect equipment leak emissions estimates. This data was not received in time to incorporate into the final risk modeling; however, we recognize that these changes would further reduce estimated ethylene oxide emissions from equipment leaks. Meeting minutes for the March discussion between the EPA and Lanxess, as well as the written responses Lanxess provided to questions asked at this meeting, can be found in the memorandum, *Meeting Record for March 25, 2020, Meeting Between the U.S. EPA and Representatives of Lanxess Corporation,* in the docket for this rulemaking.

Comment: Several commenters provided input on the emissions estimates used in the risk modeling for the Huntsman Performance facility in Conroe, Texas. One commenter stated that the EPA's emissions estimates for the facility from the 2014 National Emissions Inventory (NEI) and the 2014 Toxics Release Inventory (TRI) are not appropriate for use in a risk assessment. The commenter argued that even if the NEI and TRI data were developed with adequate specificity to support risk modeling, the data are 6 years old and do not reflect current operations. The commenter provided data for the Huntsman Performance facility that they claimed more accurately reflect ethylene oxide emissions from equipment leaks, based on a detailed analysis using direct quarterly LDAR monitoring data for each relevant component. Another commenter recommended that the EPA use the information provided in Huntsman Performance's comments in the final rule because the new data more accurately reflect ethylene oxide emissions at the Huntsman Performance facility. Commenters stressed that the submitted data significantly improve on the 2014 data because they reflect physical and operating changes made since 2014, such as addition and removal of relevant equipment. One commenter explained that the new data submitted remain highly conservative and are expected to overstate actual ethylene oxide emissions, largely because the commenter's data analysis does not assume that results below the detection limit are equal to "zero" but are present at the detection limit.

Some commenters stated that the EPA's modeling files incorrectly included sources at the Huntsman Performance facility that are not MON-applicable. One commenter asserted that the EPA's risk assessment for the Huntsman Performance facility incorrectly designates certain units with ethylene oxide emissions as being regulated under MON, despite the fact that they are not MON sources. Commenters also stated that the EPA specifically notes that these ethylene oxide equipment leak emissions are not entirely from MON processes; however, the EPA did not have enough information to distinguish between emissions attributed to MON processes versus other processes (*e.g.,* 40 CFR part 63, subparts H and PPP). The commenter specifically identified the railcar unloading fugitive area and tank farm fugitives as inappropriate to include as MON sources and provided input on why the sources do not meet the definition of MCPU or storage tank or fall within the purview of the MON. The commenter provided a copy of revised modeling they conducted with the updated emissions estimates and removal of units not subject to MON; the commenter's revised modeling results showed that residual risks associated with the Huntsman Performance facility are 40-in-1 million.

Response: The EPA has reviewed the updated equipment leak emissions data provided during the comment period by Huntsman Performance in Conroe, Texas, the second highest risk-driving facility that was identified at proposal. We agree with the information provided that two emission units were incorrectly modeled as being subject to MON, when in fact, they are subject to other standards. As such, in the final rule these units are modeled at the whole facility-level only. We have also updated Huntsman Performance's ethylene oxide equipment leak emissions using the updated emissions data provided by the facility, consistent with the EPA's standard practice of using the best available data. The EPA believes that the updated data represents the best available data because it is more recent (*i.e.,* 2019), is based on actual emissions measurements, reflects recent physical and operating changes made to the process since the 2014 NEI emissions were reported, and conservatively considers results below the detection limit as being present at the detection limit. After considering all updates made to the emissions data for Huntsman Performance, the ethylene oxide emissions before controls are applied are estimated to be approximately 0.03 tpy based on actual and allowable emissions, compared to roughly 0.26 tpy estimated at proposal. The pre-control cancer risks are estimated to be 20-in-1 million. After ethylene oxide-specific controls are applied, the estimated post-control cancer risks are also 20-in-1 million. Risks are not reduced with the amendments because (1) storage tank and process vent controls have no effect since these are not sources of ethylene oxide emissions at this facility, and (2) equipment leak Control Option 1 has no effect because this facility already meets the LDAR requirements this option requires.

We note that, after the comment period closed, the EPA met with representatives from Huntsman Performance on March 12, 2020, to

discuss their comments posted to the docket on February 20, 2020, (see Docket Item No. EPA–HQ–OAR–2018–0746–0073) and ask clarifying questions. Subsequently, Huntsman Performance provided written responses to these questions on April 27, 2020. The information received in their April response further supports their prior assertion from their February 2020 comments that the two units modeled as being subject to MON at proposal should instead be modeled only at the whole facility level and provides additional information related to wastewater operations at the facility. No changes to facility emissions or the risk assessment were made as a result of the April 2020 responses, beyond the changes already made based on their comments submitted in February 2020. Meeting minutes for the referenced discussion between the EPA and Huntsman Performance, as well as the written responses Huntsman Performance provided in April 2020 to the questions asked at this meeting, can be found in the memorandum, *Meeting Record for March 12, 2020, Meeting Between the U.S. EPA and Representatives of Huntsman Performance,* in the docket for this rulemaking.

Several commenters provided comments on the EPA's risk acceptability and ample margin of safety determinations. Those comments are as follows:

Comment: Several commenters agreed with the EPA's determination that the proposed emission standards for this source category would achieve an acceptable risk level and protect public health with an ample margin of safety. One commenter in support of the finding stated that the Benzene NESHAP rulemaking expressly notes that "[t]he presumptive level provides a benchmark for judging the acceptability of maximum individual risk ("MIR"), but does not constitute a rigid line for making that determination." [15] The commenter stated that, in the Benzene NESHAP itself, the EPA found MIRs for two categories that exceeded the standard 1-in-10,000 (100-in-1 million) presumptive benchmark acceptable (200-in-1 million for Coke By-Product Recovery Plants and 600-in-1 million for Equipment Leaks) based on uncertainties in the data that suggested risks were overstated. The commenter expressed that this precedent means that the EPA has authority to accept a MIR that is above a 1-in-10 thousand (100-in-1 million) benchmark, and that scientific uncertainty and the likely overstatement of risks is a reasonable basis for doing so. The commenter stated that, therefore, the EPA should make a similar acceptability determination for the MON RTR rulemaking, given that comparable uncertainties exist with the information and emissions estimates informing the risk modeling.

However, other commenters questioned the justification for proposing a regulation that would still allow a cancer risk of 200- to 300-in-1 million. One commenter stated that failing to set a health-protective emission standard that eliminates unacceptable risk because a risk factor "could be" lower is arbitrary and unlawful under CAA section 112(f)(2). Other commenters said they believed that the 100-in-1 million lifetime cancer risk cannot be considered safe or "acceptable," and multiple commenters recommended that the EPA ensure risks from ethylene oxide exposure are below 100-in-1 million. Two commenters insisted that no level of health risks from HAP can be presumed safe or "acceptable" and that the EPA must reduce risks to the lowest possible level.

Other commenters stated that the EPA must require companies to take steps necessary to prevent all unacceptable health threats and to provide an "ample margin of safety to protect public health." Commenters further argued that the EPA did not establish an "ample margin of safety" between what the EPA considers to be an acceptable level of risk and the current emission limits, taking into account the nature of the chemicals being emitted and the uncertainties in the EPA's risk assessments, as required under CAA section 112(f)(2). The commenter argued that the EPA has not shown that it has considered whether the uncertainties regarding its health risk assessment require a stronger standard.[16]

Response: We agree with commenters that baseline risks for the Miscellaneous Organic Chemical Manufacturing source category were unacceptable. However, we disagree with commenters who objected to our determinations of risk acceptability and ample margin of safety after implementation of proposed controls. As explained in the preamble to the proposed rule (84 FR 69182, December 17, 2019), section 112(f)(2) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address residual risk and interpret "acceptable risk" and "ample margin of safety" as developed in the Benzene NESHAP (54 FR 38044, September 14, 1989). As explained in the Benzene NESHAP, "the first step judgment on acceptability cannot be reduced to any single factor" and, thus, "[t]he Administrator believes that the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information." 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, "the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors." *Id.* As also explained in the preamble to the proposed rule (84 FR 69182, December 17, 2019), the EPA has adopted this approach in its residual risk determinations, and the Court has upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP into the statute. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

As discussed previously, we have revised the residual risk assessment for the final rule to incorporate additional data received from a CAA section 114 request, as well as updated emissions data for ethylene oxide received during the public comment period, for the two facilities with cancer risks greater than 100-in-1 million at the time of proposal. Revisions to the risk assessment incorporate the best available data and result in an improved assessment of the risks from these sources. The revised risk assessment (documented in the *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking) shows that, both before and after application of Control Option 1, seven of the eight facilities with equipment in ethylene oxide service have estimated cancer risks below the 100-in-1 million benchmark. After application of controls for process vents, storage tanks, and equipment leak Control Option 1 as required by this final rule, the remaining facility,

[15] Commenter provided the following reference: 54 FR 38045, September 14, 1989.

[16] Commenter provided the following reference: *NRDC,* 824 F.2d at 1165 ("Congress . . . recognized in section 112 that the determination of what is 'safe' will always be marked by scientific uncertainty and thus exhorted the Administrator to set emission standards that will provide an 'ample margin' of safety.").

Lanxess, has estimated cancer risks of 200-in-1 million.

Regarding the post-control cancer risks of 200-in-1-million, based on the revised risk assessment, we note that 100-in-1 million cancer risk is not a bright line indicating that risk is ''acceptable.'' As noted by commenters, the EPA has previously accepted MIRs that exceeded 100-in-1 million (*i.e.,* 200-in-1 million in the Benzene NESHAP, 54 FR 38047; 200-in-1 million in the National Emission Standards for Coke Oven Batteries, 70 FR 19993; and 200-in-1 million in the National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, 71 FR 42731). We note that one commenter claimed that the EPA found a cancer risk as high as 600-in-1 million acceptable for equipment leaks in the Benzene NESHAP. This is inaccurate. A 600-in-1 million risk estimate was discussed in the proposed Benzene NESHAP. However, this estimate was found to be based on outdated emissions and, in the final Benzene NESHAP, the EPA noted that while it did not have enough time to do so, if it had estimated risks based on updated emissions information, risks were expected to be approximately 100-in-1 million; this was the basis for the risk acceptability determination (54 FR 38048).

When considering risk acceptability, the EPA considers all of the health risk information and the associated uncertainties (*e.g.,* uncertainties in emissions, relevant health effects information), as well as the inherent health protective nature of our risk assessment methods. For example, many of the dose-response values we use for HAP are considered plausible upper-bound estimates. For the revised risk assessment for this source category, the risk driver was ethylene oxide, and we used the 2016 EPA IRIS URE for ethylene oxide to calculate increased cancer risk. As noted in the preamble to the proposed rule, the modeled cancer risks due to emissions of ethylene oxide are sensitive to the URE applied. For EPA's 2016 ethylene oxide URE, the memorandum, *Sensitivity of Ethylene Oxide Risk Estimates to Dose-Response Model Selection,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0027) and discussed at length in the proposal preamble, highlighted two key aspects (*i.e.,* upper-bound estimate and dose-response model) potentially contributing to the conservative (*i.e.,* health protective) nature of the final 2016 URE. When taken into account, these two aspects provide important context for interpreting risks remaining post-control and indicate that the risks are acceptable.

Furthermore, we note that few people are exposed to cancer risks greater than 100-in-1 million, one of the components of health risk information considered when estimated cancer risks exceed the presumptive benchmark of 100-in-1 million. We estimate that, of the 89,000,000 people living within 50 km of a source category facility, 107 (0.0001 percent) would be exposed to levels greater than 100-in-1 million due to emissions from the source category. We also note that the number of people exposed to risks above 100-in-1 million is similar to other rules where risks above 100-in-1 million were found to be acceptable (100 people in the Benzene NESHAP, 54 FR 38047; 70 people in the National Emission Standards for Coke Oven Batteries, 70 FR 19993; and two people in the National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, 71 FR 42731). We also note that the cancer incidence (0.09), while higher than the estimated incidence for Dry Cleaning Facilities (0.002), is comparable to cancer incidence used in acceptability determinations for the Benzene NESHAP (0.05) and for Coke Oven Batteries (0.06), despite considerably more facilities in this source category (194) compared to the others (12, 36, and four facilities, respectively). Also, the percentage of people exposed to cancer risks greater than or equal to 1-in-1 million (2 percent of the population living near a facility) is within the range of other rules such as the Benzene NESHAP (0.4 percent) and Coke Oven Batteries (12 percent).

Finally, no other safe controls were identified to further reduce risks. While equipment leak Control Option 2 for equipment in ethylene oxide service was considered, based on comments and information received on the proposed rule, it would not be appropriate to apply to equipment in ethylene oxide service due to concerns of explosions. Additional details on comments received and our response for equipment leak Control Option 2 are provided in section IV.A.3.c of this preamble.

Therefore, we disagree with commenters that maintain that the EPA should ensure that the MIR is substantially below the presumptive benchmark of 100-in-1 million, or that the EPA must prevent all unacceptable health risks. Considering all of the relevant health risk information and factors discussed in the Benzene NESHAP and presented in the proposal preamble, including the uncertainties discussed in section III of the proposal preamble (*i.e.,* the emissions dataset, dispersion modeling, exposure estimates, and dose-response relationships), the EPA's use of the 2016 IRIS URE for ethylene oxide (which is developed to be health protective), and concerns raised by commenters, we conclude that the risks from HAP emissions for the Miscellaneous Organic Chemical Manufacturing source category, after application of the requirements that we are adopting, including application of the ethylene oxide-specific controls, will achieve acceptable risks for this source category and provide an ample margin of safety to protect human health (consistent with the Benzene NESHAP framework).

c. Rule Changes

Comment: Commenters requested that the EPA reconsider the ethylene oxide thresholds for storage tanks and process vents identified in the proposed definition of ''in ethylene oxide service'' because the thresholds the EPA has proposed for defining process vents and storage tanks in ethylene oxide service would encompass far more storage tanks and process vents than the EPA has accounted for in the rulemaking record. The commenters explained that ethylene oxide is used as a reactant/intermediate in the production of a wide variety of chemicals. The commenters added that because these chemicals are made with ethylene oxide, they may contain small residual amounts of unreacted ethylene oxide at concentrations much less than 0.1 percent. The commenters said that even such low amounts of ethylene oxide would represent ''knowledge that ethylene oxide could be present'' in a number of process vents and storage tanks far beyond the number of facilities identified in the rulemaking record. The commenters stated that if finalized the requirement would likely result in a significant number of storage tanks being subject to the ethylene oxide requirements for which the EPA did not estimate the costs of control or other compliance burden in their impacts analysis. Instead, the commenters recommended revising the threshold to 0.1 percent by weight for storage tanks; and noted that setting the concentration threshold to 0.1 percent by weight as an annual average is consistent with the ''de minimis'' concentration threshold applicable to toxic chemical release reporting under 40 CFR part 372 and the hazardous chemical inventory reporting requirements under the Emergency Planning and Community Right-To-Know Act (EPCRA). The commenters stated that suppliers are not required to inform receiving companies of the

potential presence of ethylene oxide at levels in the 1 ppmw to 1,000 ppmw (0.1 percent) range; and facilities routinely report under these programs and that standardizing the definition of ''in ethylene oxide service'' will allow facilities to continue to use their current chemical inventory tracking systems to determine whether ethylene oxide could potentially be present.

Some commenters also supported revising the threshold to 0.1 percent by weight for process vents. Other commenters supported regulating process vents where the concentration of ethylene oxide exceeds 20 ppmv on an annual average basis at the point of discharge to the atmosphere or the point of entry into a control device. The commenters noted that setting a 20 ppmv threshold for a vent to be considered as being in ethylene oxide service would still be sufficiently protective and would require what are now Group 2 continuous or batch process vents to be controlled. Some commenters also suggested raising the 5 lb/yr mass threshold and clarifying where process vent characteristics should be determined (after the last recovery device but prior to the inlet of any control device that is present and prior to release to the atmosphere). Several commenters objected to the phrase in the proposed rule definition of ''in ethylene oxide service'' as it relates to process vents that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide ''anywhere in the process,'' and when combined, the sum of all these process vents would emit uncontrolled, ''undiluted'' ethylene oxide emissions greater than or equal to 5 lb/yr (2.27 kg/yr). Commenters questioned the use of the term ''undiluted'' as part of the mass emission criteria. One commenter also asked for clarification that some process vents may remain uncontrolled as long as the ethylene oxide from all process vents (controlled and uncontrolled) is less than 5 lb/yr and also asked the EPA to clarify that the 5 lb/yr is on an MCPU-by-MCPU basis.

Response: After consideration of these comments, we agree that storage tanks containing less than 1,000 ppmw of ethylene oxide (less than 0.1 percent by weight) should not be considered in ethylene oxide service. We agree that a 1,000 ppmw threshold that also corresponds to the chemical inventory reporting requirements under EPCRA and other supplier notification requirements does reduce the uncertainty for the regulated community and eliminates the burden of performing analyses to demonstrate compliance with the rule, while preserving the emissions reductions associated with continuing to regulate those storage tanks containing significant amounts of ethylene oxide. The 1,000 ppmw threshold is also identical to the ''in ethylene oxide service'' criterion for applicability to the ethylene oxide-specific requirements for equipment leaks, which should also streamline applicability determinations for process equipment, piping, and storage tanks. Because of its reactivity, ethylene oxide is stored either as a pure component or in solution with other material in very low concentrations (*e.g.,* at impurity levels). We agree with commenters that emissions from tanks storing impurity levels of ethylene oxide are very low and do not result in additional risk. We agree that raising this threshold will reduce the cost of compliance for those facilities that may store and use a chemical that contains ethylene oxide at very low levels but for which emissions are negligible. We are also not providing additional constraints or clarifications on the determination of the threshold (*e.g.,* providing averaging times) for this revised threshold as we believe it is no longer needed and note that the EPCRA and supplier notifications will generally be the basis for applicability determinations.

We are not revising the threshold for process vents. First, we do not support the same threshold for process vents as tanks (1,000 ppmw), as some commenters suggest, because this value would essentially exempt all ethylene oxide-containing process vents that we have information on in the source category and would, therefore, not result in any reductions in emissions or risks. Other commenters have suggested a lower threshold of 20 ppmv ethylene oxide. We note that the process vent ethylene oxide concentrations measured in response to the CAA section 114 request ranged from 4 ppmv to 120 ppmv, and the quantifiable detection limit was below 0.5 ppmv. Therefore, we consider the proposed 1 ppmv threshold reasonable in terms of being measurable and quantifiable and also appropriate for the vent stream characteristics we intended to regulate that resulted in risk reductions. We also are not revising the 5 lb/yr mass threshold for the process vents, as the commenters did not suggest an alternative value to the mass-based threshold, although we agree that it was our intent that it be applied on an MCPU-by-MCPU basis. We also are not finalizing suggested provisions for sampling sites to remain consistent with the current MON requirements regarding the determination of uncontrolled emissions as they apply to both batch and continuous process vents. The location for determining the concentration and mass threshold is already provided in the MON, which includes ''the point of discharge to the atmosphere or the point of entry into a control device'' as the location of the process vent. For this reason, we are also revising the definition of ''in ethylene oxide service'' to remove the phrase ''anywhere in the process'' to clarify, as we have adequately specified the point at which the process vent characteristics should be evaluated. Finally, we have also removed the phrase ''undiluted'' from the mass-based criteria in the definition of in ethylene oxide service as we agree it does not apply to a mass-based threshold.

Comment: One commenter contended that the preamble discussion and proposed language in the rule is unclear as to whether the existing 0.005 weight percent total organic HAP cut-off in 40 CFR 63.107(d) of the continuous process vent definition (as referenced by the MON's continuous process vent definition in 40 CFR 63.2550) and the 50 ppmv HAP and 200 lb/yr uncontrolled HAP emission cut-offs in the batch process vent definition in 40 CFR 63.2550 still apply relative to the definition of ''in ethylene oxide service'' for process vents. The commenter requested the EPA confirm that since there is not specific language in the rule eliminating these exemptions for continuous and batch process vents in ethylene oxide service, we assume that the exemptions could still potentially apply. The commenter explained their interpretation of the proposed rule is that before the ethylene oxide requirements for process vents apply, the gas stream or emission stream must first meet the ''continuous process vent'' or ''batch process vent'' definition in 40 CFR 63.2550.

Response: The commenter is incorrect in their interpretation. In the proposed and final rule, process vents in ethylene oxide service are defined separately, and the existing 0.005 weight percent total organic HAP cut-off in 40 CFR 63.107(d) of the continuous process vent definition (as referenced by the MON's continuous process vent definition in 40 CFR 63.2550) and the 50 ppmv HAP and 200 lb/yr uncontrolled HAP emission cut-offs in the batch process vent definition in 40 CFR 63.2550 do not apply to the definition of ''in ethylene oxide service'' for process vents. Nevertheless, we are clarifying the definitions of ''batch process vent'' and ''continuous process vent'' in the final rule to make clearer that these cut-offs

do not apply to process vents in ethylene oxide service. We note that process vents could contain HAP other than ethylene oxide, and, therefore, it is possible that a process vent could be both in ethylene oxide service and also considered a Group 1 or Group 2 process vent. Owners or operators should consider all definitions that may apply as well as all control requirements when evaluating applicability and compliance obligations.

Comment: In response to our request for comment on the co-proposed Control Options for equipment leaks in ethylene oxide service, some commenters supported requiring equipment leak Control Option 2 for equipment in ethylene oxide service because health risks are unacceptable. One commenter contended that the EPA allowing the residual risks from these two highest risk facilities to be above the EPA's acceptable cancer risk level of 100-in-a-million, after leak controls, would set an unsatisfactory precedent for future RTRs. The commenter suggested that the EPA consider this an iterative process with regards to leak controls and pursue the goal of further reducing risks below the 100-in-a-million cancer risk level. Other commenters requested that the EPA apply Control Option 2 to all facilities in ethylene oxide service.

Some commenters did not support either equipment leak Control Option 1 or 2 for equipment in ethylene oxide service, but if the EPA were to finalize one of the options, they would prefer Control Option 1 with modifications. One commenter contended that the risks from the two facilities are substantially overstated so neither option is necessary, but Control Option 1 would be sufficient to reduce risks. Some commenters opposed the use of leakless valves in Control Option 2 for ethylene oxide service because of safety concerns. The commenters contended that leakless valves are more likely to trap ethylene oxide in valve cavities, and stagnant ethylene oxide polymerizes, creating heat that can cause explosions. The commenters added that the EPA inadequately addressed these safety issues and cited no actual experience with such designs in ethylene oxide service.

Commenters contended that the EPA's cost analysis for leakless valves significantly underestimates costs. One commenter added that the EPA's estimate does not include costs for engineering analysis or installation of valves, which are typically 2 to 3 times the equipment cost. One commenter added that engineering costs could be significant as bellows valves are heavier than existing equipment and evaluation for additional piping supports would be required, and the larger size of these valves would likely require reconfiguration and refabricating process piping for required clearance. The commenter continued that replacing existing valves with leakless valves will require an extended process shutdown to clear and purge the process and then replace the valves and that the EPA provides no information on the time to do this or the cost to affected companies of lost production.

Response: We agree that Control Option 1 for equipment in ethylene oxide service would sufficiently reduce risks, and we are finalizing Control Option 1 in the final rule, except as discussed later in this section of the preamble, in lieu of prohibiting PRDs in ethylene oxide service from releasing directly to the atmosphere, we are clarifying in the final rule that these PRDs must comply with the pressure release management work practice standards proposed at 40 CFR 63.2480(e) and (f), and any release event from PRDs in ethylene oxide service is a deviation of the standard. During the comment period, commenters provided updated information on their facilities, including specific information regarding sources in their facility that are subject to the MON, emissions from each source, controls in use, and operating information. We updated the risk assessment for the two facilities that, at proposal, had a MIR greater than 100-in-1 million. As discussed previously in this section of the preamble, after application of the ethylene oxide-specific controls for process vents, storage tanks, and equipment leaks from co-proposed Control Option 1, we find that the revised risks are acceptable and that the final standards will achieve an ample margin of safety to protect human health.

We reviewed whether Control Option 2 would provide additional emission reductions but determined that Control Option 2 was not appropriate to apply to equipment in ethylene oxide service based on comments and information received on the proposed rule. First, we reviewed the comments and information provided by the commenters and agree that there are potential safety concerns with the use of leakless valves for ethylene oxide service. We agree that many leakless valve designs, such as bellows seal valves, have extended packing cylinders, which have more volume and areas where ethylene oxide can be trapped and polymerize, resulting in the valve stem to stop working and the potential for explosions. No information was provided by commenters or identified from our review of available data for other sources that indicated that leakless valves are being or have been used for ethylene oxide service. Because of the safety concerns and no evidence that leakless valves are successfully being used for ethylene oxide service at this time, the final rule does not require their use. The current MON rule already requires gas and light liquid valves to be monitored at a leak definition of 500 ppm, and we did not propose different leak definitions for valves as part of Control Option 1. Secondly, although leakless pumps have been used instead of light liquid pumps for processes in ethylene oxide service, new data obtained during the comment period from Lanxess indicated that this facility does not have pumps in light liquid service that would be subject to the leakless pump requirement. Therefore, a requirement to install leakless pumps for light liquid pumps would not result in any changes to the estimated risks. As a result of the comments and information received and the results of the revised Risk Assessment, we are finalizing Control Option 1 for equipment leaks.

Comment: Several commenters disagreed with the operating parameters we proposed to require be continuously monitored for scrubbers used to control emissions from process vents and storage tanks in ethylene oxide service. Several commenters noted that column pressure drop is a reliable measurement for scrubbers that can identify flooding conditions, but may not identify channeling conditions, when scrubber efficiency is depleted as gas flow "channels" around the liquid blowdown. One commenter contended that background documents in the rulemaking docket do not have any justification for requiring a maximum pressure drop as an operating parameter limit, but speculated that the EPA had proposed a maximum to address a decrease in removal efficiency due to plugging or fouling of the packed bed. Commenters stated that engineering design should be allowed for establishing the critical process parameters for monitoring. One commenter stated that setting the maximum operating limit as the average measured during the performance test is impracticable because the pressure drop during the performance test will be measured when the packing material is cleanest. The commenter added that over time the packing material may foul and pressure drop may increase, but not to an extent which causes decreased performance. The commenter continued that the pressure drop will increase as

either gas flow or liquid flow through the scrubber increases. The commenter added that the requirement to operate below a maximum pressure drop conflicts with the requirement to operate above a minimum liquid to gas ratio. The commenter concluded that if the EPA retains the requirement to operate below a maximum pressure drop in the final rule, facilities should be allowed to set the maximum pressure drop based on manufacturer's recommendations or an engineering evaluation, not the average pressure drop measured during the most recent performance test.

Additionally, several commenters contended that monitoring liquid feed pressure is redundant with monitoring liquid-to-gas ratio and should not be included in the final rule. Commenters contend that monitoring feed pressure is an indirect method to assess scrubber liquid supply, while monitoring the scrubber liquid-to-gas ratio requires direct measurement of the liquid inlet flow rate.

Response: The EPA is maintaining the requirement to monitor pressure drop across the scrubber and liquid feed pressure to the scrubber in the final rule. As commenters note, pressure drop across a scrubber is a valuable piece of information on the operation of the scrubber. It can indicate issues with flooding, plugging, channeling, and fouling of the control device. However, we do agree with commenters that it may be challenging to establish the maximum pressure drop at the same time as the minimum liquid-to-gas ratio is established. The liquid-to-gas ratio is the primary parameter of concern in a typical wet scrubber system because it ensures that there is enough liquid available to clean the gas flowing through the system. Therefore, while we are maintaining the requirement to monitor pressure drop across the scrubber, in the final rule, we are allowing a pressure drop range to be established based on the manufacturer's recommendation or engineering analysis.

We disagree with commenters that the liquid feed pressure is redundant to the liquid flow rate. While the liquid feed pressure should indicate that liquid is flowing in the system, liquid feed pressure is also important for determining that the liquid is being appropriately dispersed within the scrubbing system, which is not something that the liquid flow rate alone can indicate. We think that ensuring the dispersion of the liquid stream is especially critical in ethylene oxide control, in order to ensure that the ethylene oxide adsorbs into the liquid stream so that it can undergo the conversion reaction. However, we are also aware that increases in liquid feed pressure can also be caused by blockages in the nozzle, and as such, the minimum pressure could be met without the nozzle properly atomizing the liquid stream. While we continue to believe that this is an important operating parameter for ethylene oxide scrubbers, we believe that this parameter does not necessarily need to be based on the performance test, and that the manufacturer should be able to provide information on what pressure in the nozzle will ensure proper operation of the nozzle. Therefore, while we are maintaining the requirement to monitor liquid feed pressure, in the final rule, we are allowing a liquid feed pressure range to be established based on the manufacturer's recommendation or engineering analysis.

Comment: Commenters requested the EPA revise the requirement to demonstrate compliance with the operating parameter limits for scrubbers used to control emissions from process vents and storage tanks in ethylene oxide service from an instantaneous basis to a daily average basis. Commenters explained that a daily average is consistent with the currently applicable requirements of 40 CFR part 63, subpart SS. One commenter stated that an instantaneous compliance demonstration with a measured value will likely lead to operators unnecessarily adjusting operating parameters in response to brief excursions due to changing process conditions. Another commenter explained that automated controls which maintain flow rate, temperature, pH, and other variables are typically "feedback" based or "closed loop control," and even the best tuned controllers have some amount of response time. The commenter added that instantaneous compliance demonstrations will invariably lead to operators manually attempting to adjust control system variables which will likely lead to overshoot and potentially decreased control efficiency and concluded that the EPA must allow some amount of averaging to account for the inherent response time of control systems and deadtime of process response.

One commenter added that a daily average aligns better with the process of establishing the parameter operating limits during a performance test, which typically consists of three 1-hour runs. Another commenter contended that the rule should at least allow for 3-hour averages and stated this would be more consistent with other 40 CFR part 63 MACT rules (such as the Hazardous Organic NESHAP (HON)) and with the process of establishing the parameter operating limits during a performance test (*i.e.,* testing typically consists of three 1-hour runs).

Response: The EPA is changing the continuous compliance requirements for the operating parameters, such that compliance with the operating parameter limits is determined on an hourly average basis instead of an instantaneous basis. We agree that instantaneous limits on operating parameters may cause some unintended consequences with control loops and that some degree of averaging is warranted.

While we acknowledge that compliance with other operating parameters for MON sources is based on a daily average, per the requirements in 40 CFR part 63, subpart SS, we do not agree that this averaging basis is appropriate for operating parameters on control devices used for ethylene oxide process vents and storage tanks. Control devices used for ethylene oxide emissions operate differently than other control devices and are required to achieve better control than other control devices. In order to achieve 99.9-percent control from these devices, it is important to ensure that the ethylene oxide control is continuously occurring. These control devices tend to be used on batch processes, where the ethylene oxide emissions may fluctuate greatly with different steps in the process. Longer averaging times could mask issues with achieving the required control efficiency during brief periods of higher ethylene oxide loading to the control device (*e.g.,* during tank loading events). In order to ensure continuous compliance with the control efficiency requirement, we are requiring compliance with the operating parameters be based on a 1-hour average in the final rule.

Comment: Commenters interpreted the proposed language at 40 CFR 63.2493(d)(4) to mean that (1) the discharge piping on PRDs in ethylene oxide service cannot be routed to the atmosphere and (2) any release event is an automatic violation of the MON rule. Commenters contended that the proposed rule seems to require that the PRD be directed to some form of emission control equipment, such as a flare. Commenters opposed requiring all PRDs in ethylene oxide service vent to a control device. Commenters contended the requirement would create safety concerns including the hydraulic limitations of the flare or other control device, backpressure limitations on the PRDs, and the incompatibility of

chemicals in vent streams in downstream controls. Commenters noted that ethylene oxide is a compound which contains oxygen and is highly reactive, extremely flammable, and can violently decompose with a significant release of heat in the absence of air, and ethylene oxide also tends to polymerize, which could result in plugging of the closed vent system or control device. The commenter concluded that existing closed vent systems and control devices require careful evaluation to determine if emissions from such events can be safely controlled.

A commenter stated that because they are of limited duration and number, such events would not lower cancer risks, which are based on long term exposures. The commenter pointed out that the EPA makes no mention of PRDs when discussing ethylene oxide risk drivers.

The commenter stated that the same technical limitations that apply to PRDs in general also apply to those in ethylene oxide service. Commenters supported requiring PRDs in ethylene oxide service to comply with the proposed PRD work practice at 40 CFR 63.2480(e). A commenter stated that other existing EPA regulations already require the owner/operator to minimize or eliminate the potential for such releases, such as the EPA regulations at 40 CFR part 302 and 40 CFR part 355 have a 10-pound reportable quantity for ethylene oxide if a release from any equipment occurs. The commenter added that if a release greater than 10 pounds occurs, then the owner/operator must report it to the National Response Center, the State Emergency Response Commission (typically a state environmental agency), and the Local Emergency Planning Committee when the owner/operator has knowledge of such a release.

A commenter added that a MON MCPU may not have a flare or may be located in an area of a larger site where there is not adequate land space for a flare.

A commenter added that if a new flare or other emission control equipment is required, design and installation of a flare system or other emission control equipment within 2 years of the final date of this rule is not practical. Commenters stated that typically, it takes 3 years to properly engineer the project, obtain capital authorization and funding, procure the equipment, and construct and start-up the equipment. Commenters noted that the EPA has not provided any background information in the preamble or in the rule docket that addresses costs or the feasibility of installing large flares or other air emission control equipment within the 2-year compliance period.

Response: We are revising the proposed requirement that PRDs in ethylene oxide service must not vent directly to the atmosphere. In lieu of prohibiting PRDs in ethylene oxide service from releasing directly to the atmosphere, we are clarifying in the final rule that these PRDs must comply with the pressure release management work practice standards proposed at 40 CFR 63.2480(e) and (f). We are also clarifying that any release event from PRDs in ethylene oxide service is a deviation of the standard. We are finalizing these requirements pursuant to CAA section 112(f)(2), on the basis for risks being unacceptable. Where we find risks are unacceptable, the EPA must determine the emissions standards necessary to reduce risk to an acceptable level. Because emissions of ethylene oxide from this source category result in unacceptable risks, we proposed and are finalizing requirements that would reduce risks to an acceptable level, including provisions that would make all PRD releases of ethylene oxide directly to the atmosphere a violation of the standard. We believe that there are very few PRDs in ethylene oxide service that vent to the atmosphere. Note that the proposed rule does not specify that PRDs must be controlled with flares; in fact, the detailed information we have indicate that most of these emission sources are controlled using scrubbers. Further, we reviewed emission release reports from the National Response Center for the 5-year period beginning in 2015 through 2019 and identified only one reported release of ethylene oxide from an ethylene oxide production facility which is not part of the Miscellaneous Organic Chemical Manufacturing source category. Also, during the public comment period, commenters did not submit any specific information on the existence of, or lack of, ethylene oxide releases from PRDs in the Miscellaneous Organic Chemical Manufacturing source category. Therefore, we maintain that controlling PRDs in ethylene oxide service is possible, and in fact represents the majority of industry's practice in this source category.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive benchmark on MIR of approximately 1-in-10 thousand" (84 FR 54278, October 9, 2019; see also 54 FR 38045, September 9, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, multipathway risks, and the risk estimation uncertainties.

Since proposal, our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have not changed. However, after proposal, commenters provided updated information on their facilities, including specific information regarding sources in their facility that are subject to the MON, emissions from each emissions source, controls in use, and operating information. We updated the risk assessment for the two facilities that, at proposal, had a MIR greater than 100-in-1 million. The revised risk assessment (see document, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking) shows that, after application of controls finalized in this rulemaking, the MIR for the source category is 200-in-1 million.

As discussed in section IV.A.3.b of this preamble, the 100-in-1 million cancer risk is not a bright line indicating that risk is "acceptable"; rather, we consider this health metric in conjunction with a variety of health factors and their associated uncertainties to determine whether the risk is acceptable. We considered the number of people exposed to risks greater than 100-in-1 million (107 people, or 0.0001 percent of the population living near a facility in the source category), the cancer incidence (0.09), and the number of people exposed to cancer risk levels greater than 1-in-1 million (1,400,000 people, or 2 percent of the population living near a facility in the source category), which are consistent with other rules where risks above 100-in-1 million were found to be acceptable (see section IV.A.3.b of this preamble for more details). We also considered that no safe controls were identified to further reduce risks. Therefore, considering the uncertainties inherent in all risk assessments as discussed in the preamble to the proposed rule (*i.e.,* the emissions dataset, dispersion modeling, exposure

estimates, and dose-response relationships) (see 84 FR 69219) and the EPA's use of the 2016 IRIS URE for ethylene oxide (which is developed to be health protective), and additional considerations discussed here and in more detail in section IV.A.3.b of this preamble, after application of the ethylene oxide-specific controls for process vents, storage tanks, and equipment leaks from co-proposed Control Option 1, we find that the risks are acceptable and that the final standards will achieve an ample margin of safety to protect human health.

B. Technology Review for the Miscellaneous Organic Chemical Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Miscellaneous Organic Chemical Manufacturing source category?

Based on our technology review for the Miscellaneous Organic Chemical Manufacturing source category, we proposed under CAA section 112(d)(6) changes to the standards for equipment leaks and heat exchange systems, and we proposed no changed under CAA section 112(d)(6) for process vents, storage tanks, transfer racks, and wastewater streams. We provide a summary of our findings, as proposed, in this section.

a. Equipment Leaks

In our technology review for the Miscellaneous Organic Chemical Manufacturing source category, we identified developments in LDAR practices and processes for equipment leaks (excluding equipment in ethylene service). We identified four options for lowering the leak definition for certain process and component types and requiring periodic monitoring, and the options varied by leak definition level, process type (*i.e.,* batch process v. continuous process), component type, and monitoring frequency. Refer to section IV.D.1 of the proposal preamble (84 FR 69182, December 17, 2019) for a summary of the four options. Based on our evaluation of the costs and emission reductions of each of the four options, we determined that the most cost-effective strategy was to lower the leak definition for pumps in light liquid service (in an MCPU that has no continuous process vents and is part of an existing source) from 10,000 ppmv to 1,000 ppmv with monthly monitoring and initial monitoring within 30 days after initial startup of the equipment, which we proposed pursuant to CAA section 112(d)(6) to further reduce HAP emissions from equipment leaks for MON equipment not in ethylene service.

For a detailed discussion of the EPA's findings, refer to the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0003).

b. Heat Exchange Systems

In our technology review for the Miscellaneous Organic Chemical Manufacturing source category, we identified one development in practices and processes for heat exchange systems, the use of the Modified El Paso Method [17] for monitoring for leaks from heat exchange systems. We determined that this method is more effective in identifying leaks and measures a larger number of compounds than the methods previously required in the MON. After evaluating state and Federal regulations requiring the Modified El Paso Method, as well as emission data collected for the Ethylene Production RTR (refer to section II.D of the proposal preamble (84 FR 69182, December 17, 2019) and the Ethylene Production RTR rulemaking docket, Docket ID No. EPA–HQ–OAR–2017–0357), we proposed pursuant to CAA section 112(d)(6) to require use of the Modified El Paso Method with a leak definition of 6.2 ppmv of total strippable hydrocarbon concentration (as methane) in the stripping gas to further reduce HAP emissions from both new and existing heat exchange systems, as well as to disallow delay of repair of leaks if the measured concentration meets or exceeds 62 ppmv. Based on an evaluation of incremental HAP cost effectiveness to increase the monitoring frequency, we proposed no changes to the monitoring frequency previously required under the MON for monitoring for leaks from heat exchange systems, which continues to be monthly monitoring in the first 6 months following startup of a source and quarterly monitoring thereafter. We also proposed to require re-monitoring at the monitoring location where a leak is identified to ensure that any leaks found are fixed. Further, we proposed that none of these proposed requirements for heat exchange systems apply to heat exchange systems that have a maximum cooling water flow rate of 10 gpm or less. Refer to section IV.D.2 of the proposal preamble (84 FR 69182, December 17, 2019) for a summary of our rationale for selecting the proposed leak method, leak definition, and limitation on delay of repairs, as well as our rationale for retaining the previous monitoring schedule.

For a detailed discussion of the EPA's findings, refer to the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0007).

c. Process Vents, Storage Tanks, Transfer Racks, and Wastewater Streams

In our technology review of process vents, storage tanks, transfer racks, and wastewater streams for the Miscellaneous Organic Chemical Manufacturing source category, we identified no cost-effective developments in practices, processes, or control technologies for these emissions sources that would achieve a greater HAP emission reduction beyond the emission reduction already required by MON. Therefore, we proposed no revisions to the MON pursuant to CAA section 112(d)(6) for process vents, storage tanks, transfer racks, and wastewater streams. For a detailed discussion of the EPA's findings, refer to the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Process Vents, Wastewater, Transfer Racks, and Storage Tanks Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0008). This analysis is also described in detail in section IV.B of the preamble to the proposal preamble (84 FR 69182, December 17, 2019).

2. How did the technology review change for the Miscellaneous Organic Chemical Manufacturing source category?

We are finalizing the results of the technology review for the Miscellaneous Organic Chemical Manufacturing source category as proposed (84 FR 69182, December 17, 2019), with the following exceptions.

[17] The Modified El Paso Method uses a dynamic or flow-through system for air stripping a sample of the water and analyzing the resultant off-gases for volatile organic compounds (VOC) using a common flame ionization detector (FID) analyzer. The method is described in detail in Appendix P of the TCEQ's Sampling Procedures Manual: *The Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound (VOC) Emissions from Water Sources.* Appendix P is included in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0024).

For equipment leaks not in ethylene oxide service, based on comments received on the proposal, we are clarifying in the final rule that the initial monitoring of equipment is only required if the new or replaced equipment is subject to Table 6 to 40 CFR part 63, subpart FFFF, and is also subject to periodic monitoring with EPA Method 21 of appendix A–7 to 40 CFR part 60 and that the initial monitoring does not apply to equipment classified as unsafe-to-monitor or difficult-to-monitor equipment.

For heat exchange systems, we are taking final action on the proposed requirement to monitor leaks from heat exchange systems using the Modified El Paso Method consistent with the December 17, 2019, RTR proposal. However, based on comments received on the proposed rulemaking, we are also making some technical clarifications to allow compliance with the Modified El Paso Method using an alternative mass-based leak action level of total strippable hydrocarbon equal to or greater than 0.18 kilograms per hour (instead of the proposed concentration-based leak action level) for small heat exchange systems with a recirculation rate of 10,000 gpm or less.

3. What key comments did we receive on the technology review, and what are our responses?

This section provides comment and responses for the key comments received regarding our proposed revisions for equipment leaks; heat exchange systems; and process vents, transfer racks, storage tanks, and wastewater streams. Other comment summaries and the EPA's responses for additional issues raised regarding these activities, as well as issues raised regarding our proposed revisions, can be found in the document *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

For equipment leaks not in ethylene oxide service, we received comments on potential issues and problems associated with the proposed requirements for pumps in light liquid service (in an MCPU that has no continuous process vents and is part of an existing source) to meet a leak definition of 1,000 ppmv and requiring facilities to initially monitor for equipment leaks within 30 days after initial startup of the equipment. See section IV.B.3.a of this preamble for further details.

For heat exchange systems, the EPA received additional information from commenters on costs necessary for control of these sources as well as comments on a number of technical clarifications and allowance of compliance with an alternative mass-based leak action level should the EPA finalize the requirements for heat exchange systems. See section IV.B.3.b of this preamble for further details.

For process vents, transfer racks, equipment leaks, and wastewater streams, the comments were supportive of the determination that no cost-effective developments from the technology review were found. See section IV.B.3.c of this preamble for further details.

a. Equipment Leaks

Comment: A commenter requested the EPA not finalize the lowering of the leak definition for batch light liquid pumps from 10,000 ppm to 1,000 ppm because it inadvertently removes existing exemptions for all pumps. The commenter contended that instead of simply nullifying 40 CFR 63.2480(b)(5), which sets the leak definition to 10,000 ppm for batch pumps, the language in 40 CFR 63.2480(b)(6) appears to apply to all pumps, not just those for batch processes. The commenter added that as a result, the leak definitions for pumps in specific service (*i.e.,* polymerizing polymers and food/medical service) and the 2,000 ppm repair threshold in subparts H and UU will be overwritten. The commenter contended that the EPA has provided no analysis or justification for such a change. The commenter added that if the revision is intended to apply only to batch pumps, this results in continuation of different standards for batch and continuous pumps. The commenter suggested that to clarify the requirements and streamline compliance the EPA should apply the same standards to all pumps in light liquid service.

Response: We agree with the commenter that the proposed requirement of a leak definition of 1,000 ppm for light liquid pumps at both batch and continuous processes directly in the MON rule inadvertently overrode facilities complying with the equipment leak requirements in subparts H and UU as the MON references both rules for leak definitions. The intention of the proposed requirement was to make the light liquid pump requirements for batch processes the same as the existing requirements for continuous processes and streamline the requirements by codifying them in the MON rule. The intention was not to remove the existing exemptions or repair requirements. We have revised the final rule to require light liquid pumps in batch and continuous processes that are not in ethylene oxide service to comply with the requirements in 40 CFR part 63, subpart H or UU, or 40 CFR part 65, subpart F, which is a leak definition of 1,000 ppmv, by removing the exemption for light liquid pump monitoring in 40 CFR 63.2480(b)(5) and 40 CFR 63.2480(c)(5) and removing the proposed leak definition in the MON.

Comment: Some commenters requested the EPA not finalize the proposed requirements at 40 CFR 63.2480(b)(7) and (c)(11) that specify initially monitoring leaks 30 days after initial startup of the equipment. The commenters contended this requirement adds a significant burden that the EPA did not consider, nor has the EPA provided any justification as to whether this requirement would provide any emissions reductions.

One commenter contended that 40 CFR 63.2480(b)(7) and (c)(11) specify that "each piece of equipment" must be monitored initially for leaks within 30 days after initial startup of the equipment and that the term "Equipment" is already defined in the MON at 40 CFR 63.2550. The commenter contended that this could be interpreted to require this 30-day monitoring requirement to apply to every single piece of equipment within the scope of the "Equipment" definition regardless of monitoring exemptions or the fact that some component types do not require routine monitoring. The commenter stated that equipment excluded from monitoring under the MON (*e.g.,* equipment routed to control, fuel gas or a process; equipment in heavy liquid service; instrumentation systems; open-ended lines and valves; and connectors) should be excluded from this new requirement. The commenter also contended that pumps and agitators are already checked weekly and monthly and thus should be excluded from this new requirement and that, for clarity and simplicity, it would be simplest to limit these new requirements to gas and light liquid valves. The commenter also requested that the EPA clarify that "replacement" does not include reinstalling an item of equipment that has been removed for inspection or repair. The commenter provided an example of PRDs that are typically removed for bench testing and then replaced. The commenter continued that since the bench test confirms the PRD does not open until the set pressure is reached, there is no need to test it outside of the normal periodic schedule. The commenter also identified repaired equipment as already being required to re-monitor within 15 days and thus should also be

excluded from the 30-day requirement. Another commenter recommended that this initial monitoring requirement should also apply only to equipment that is subject to periodic monitoring with EPA Method 21 of appendix A–7 to 40 CFR part 60.

Some commenters stated that the proposed requirement would require significant training of maintenance and operations staff and development and implementation of tracking systems to ensure no equipment component is replaced or added without conducting the 30-day monitoring. Commenters stated that this will place a significant burden and cost to an MCPU and that the EPA did not consider the burden associated with tagging, updating the LDAR program, and managing the component-by-component leak schedule this proposed requirement will impose, especially for equipment that is added or replaced frequently within an MCPU.

Commenters contended some MON processes restrict additional personnel, such as LDAR personnel, in their operating areas for safety reasons; and some equipment is never safe to monitor while in service. The commenters added that safety restrictions may be in place for a period of time, which then reduces the number of days in the 30-day period for the initial monitoring. One commenter concluded that a 30-day period is not long enough to organize the initial monitoring for these components or even components in less restricted areas.

One commenter stated that the compliance date section in 40 CFR 63.2445(g)(3) does not mention when the 30-day requirement in 40 CFR 63.2480(b)(7) and (c)(11) becomes effective, so it appears that the language might be effective the date the final rule is published. The commenter recommended that the requirement in 40 CFR 63.2480(b)(7) and (c)(11) to initially monitor each piece of equipment for leaks within 30 days after initial startup of equipment should be amended to reference the language in 40 CFR 63.162(g) of HON subpart H and 40 CFR 65.3(d) of the Consolidated Federal Air Rule to determine the first monitoring period depending on how many days are left in the week, weeks remaining in the month, months remaining in the quarter, and quarters remaining in the year. Two commenters stated that if the EPA promulgates these requirements, the proposed applicability date should be changed from December 17, 2019, to 3 years after the date of publication of the final rule. One commenter stated that if the EPA promulgates these requirements, more time is needed, such as 3 months from the time components initially are in organic HAP service. The commenter contended that the EPA cannot impose requirements retroactively and that time is needed to develop the infrastructure to address this requirement.

One commenter contended that this change is presented as a "clarification" in the preamble discussion, but no such requirement was part of the negotiated rulemaking [18] that established the part 63 LDAR program, nor is such a requirement suggested in the existing language as shown by the EPA's need to propose new language to this rule to impose this requirement. The commenter claimed that this is a new requirement, not a clarification. The commenter added that as such, it must be justified under CAA section 112(d)(6). Commenters contended that nothing is presented in the MON record to show there is a problem with current (generally quarterly) periodic monitoring as specified in the existing 40 CFR part 63, subpart H or UU, or 40 CFR part 65, subpart F. One commenter said that the EPA appears to have recognized the challenges to implementing initial monitoring requirements 30 days after initial startup of equipment and cited the HON as it requires only new sources to initially monitor only valves in gas/vapor service and light liquid service quarterly. The commenter presumed that this provision was added to the HON for new sources because of the results of the MACT determination under the HON. The commenter concluded that the EPA had not conducted a MACT determination for this proposed provision under the MON, nor has it completed a cost-benefit or risk analysis necessary to add this requirement under this technology or risk review.

One commenter contended that by claiming this new requirement is a "clarification" it could mistakenly be construed as applying to all part 63 and 65 LDAR programs. The commenter stated that proposing this change in the MON RTR rulemaking does not provide adequate notice and an opportunity for comment to most of the sources potentially impacted. The commenter recommended that the EPA should clarify that this is a new requirement and is only applicable to sources subject to the MON and that it is not a clarification of existing requirements in 40 CFR part 63, subpart H or UU, or in 40 CFR part 65, subpart F.

Response: The EPA did not intend for the requirement to initially monitor components 30 days after initial startup of the equipment to apply as broadly as the commenters have interpreted. We intended for the requirement to only apply to new or replaced equipment regulated under the MON that must be periodically monitored with EPA Method 21. Similar requirements were promulgated in 40 CFR part 60, subparts VV and VVa. We agree with the commenters that the requirement to monitor equipment within 30 days of startup is not appropriate for equipment that are classified as unsafe-to-monitor or difficult-to-monitor due to their locations and safety concerns.

In the final rule, we are clarifying at 40 CFR 63.2480(b)(7) and (c)(11) that monitoring leaks within 30 days after initial startup applies only to new or replaced equipment that is subject to Table 6 to 40 CFR part 63, subpart FFFF, and is also subject to periodic monitoring with the EPA Method 21 of appendix A–7 to 40 CFR part 60. We are also clarifying that the requirement does not apply to equipment classified as unsafe-to-monitor or difficult-to-monitor equipment. Following the initial monitoring, the equipment may follow the periodic monitoring program applicable to each affected process unit. We are not changing the compliance date for this requirement in the final rule, and the requirement will be effective the date the final rule is published in the **Federal Register**. This requirement only applies to new and replaced components, and as such, we expect facilities are able to appropriately plan ahead for installation of new components.

We disagree with commenters that a 112(d)(6) review is needed for this requirement. The requirement to conduct initial monitoring of equipment for leaks within 30 days of startup is a clarification to the compliance provisions of an existing work practice, not a new work practice. As discussed earlier, a similar change was made for 40 CFR part 60, subpart VV. As we stated in that rulemaking (72 FR 64862), the change is a clarification of the initial monitoring requirements. The clarification is intended to provide certainty to owners or operators on the timeframe in which this compliance activity must be conducted.

b. Heat Exchange Systems

Comment: We received comments in support of and against the proposal to require use of the Modified El Paso Method for detecting and repairing leaks in heat exchange systems.

One commenter supported the use of the Modified El Paso Method, and stated that in the Ethylene Production

[18] Commenter provided the following reference: 57 FR 62617–62619 (December 31, 1992).

rulemaking, the EPA found that at least 20 heat exchange systems (at eight facilities) are already required by TCEQ's highly reactive volatile organic compounds (HRVOC) rule to conduct continuous Modified El Paso Method monitoring.

Some commenters opposed the proposed control requirements for heat exchange systems, stating the requirements were not cost effective when considering the actual costs to repair leaks. Some commenters said that the costs provided in Table 3 of the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category for the Final Rule,* significantly underestimate the true cost associated with leak repair at MON facilities. The commenters contended that the EPA has not taken into account that after identifying a leak, maintenance and operations personnel must develop a strategy and schedule to remove the leaking exchanger from service to conduct the repair. The commenter explained that this activity involves identifying and selecting options for bypassing the process stream from the leaking system, determining the amount of production turndown necessary while the exchanger is out of service, identifying and selecting the appropriate contract personnel, and scheduling the work so that it does not conflict with any other planned maintenance. The commenters said these steps alone require approximately 128 personnel hours. In addition to these costs, the commenters said that the EPA did not include costs for bypassing the leaking system to avoid a total shutdown, which may include renting and plumbing temporary heat exchangers. The commenters also said that the EPA did not include costs for the rental and installation of cranes and scaffolding for accessing the heat exchanger for repairs or costs for specialized contracted maintenance support to de-head the exchanger and perform the repair. The commenters contended that repair costs range from $200,000 to $400,000 per event, not considering lost profit due to turndown or shutdown of the production unit. Factoring in these additional costs and using the EPA's calculated HAP emissions reductions of 31 tons per year, the commenters said the revised cost effectiveness becomes $161,930 per ton of HAP. The commenters cited the NESHAP final RTR for Friction Materials Manufacturing Facilities (83 FR 19511) where the EPA found a $3,700 per ton cost for a permanent total enclosure not cost effective, and the NESHAP proposed RTR for the Petroleum Refinery Sector (79 FR 36916) where the EPA found a $14,100 per ton cost for lowering leak definitions not cost effective. The commenters stated that the EPA acknowledges in the preamble that emissions from heat exchange systems have no discernable impact on cancer risk for the modeled facilities and that additional controls for heat exchange systems are not necessary to provide an ample margin of safety.

One commenter requested that the EPA reconsider the cost information submitted on heat exchanger leak repairs in the context of MON, independent of the prior decision made for the Ethylene Production RTR. The commenter said that the EPA's response to their similar comment for the Ethylene Production RTR, that heat exchange systems for ethylene production facilities were not cost effective, was not persuasive. The commenter said that the EPA must consider the entire cost of a heat exchanger repair for the additional/incremental repairs that will be required as a result of lower effective leak definitions and restrictions to the delay of repair provisions; for example, if the current rule requires 4 leaks to be repaired, and the revised rule requires 5 leaks to be repaired, the incremental cost is the entire repair cost for the 5th repair, not a subset of the repair costs, because the current rule would not require the 5th repair at all. In addition, the commenter said they provided a detailed account of several components of repair costs and the range of typical repair costs, yet the EPA did not consider this information in the final rule for the Ethylene Production RTR (signed on March 12, 2020). The commenter also objected to the EPA's response, to similar comments in the pre-publication of the final rule for the Ethylene Production RTR, that the ACC did not provide additional information for the agency to determine the amount of time additional leaks would have to be fixed under the revised heat exchange system standards. The commenter contended that EPA already had sufficient data. The commenter said the EPA based the leak distribution analysis in the technology review memorandum for heat exchange systems at ethylene production facilities on continuous monitoring data from 13 heat exchange systems at six facilities, and the EPA indicated that no leaks in the data were above the current rule threshold; thus, all leaks at the average leak distribution chosen for analysis that were above the new leak detection threshold would be considered "incremental repairs."

One commenter contended that requiring the Modified El Paso method is not cost effective in all cases. The commenter stated that in certain cases, where soluble type HAP or VOC are the dominant organic species on the process side of the heat exchanger, the current leak detection method (*i.e.,* cooling water sampling to detect leaks) is "adequate," and, therefore, the costs to change to using the El Paso method are "not justified." The commenter explained that mandated conversion of their 56 heat exchanger systems (HES) to the Modified El Paso method would require installation of tubing and taps to set up sampling stations for the El Paso apparatus. The commenter added that where there is not room or access close by the HES, remote stations would have to be established. In order to take the measurements, the commenter stated that an LDAR Method 21 technician must accompany operators to the sampling locations and move the El Paso apparatus from location to location; otherwise, multiple El Paso sampling devices would have to be installed. The commenter contended that the costs associated with the proposed change are not justified when the current method is adequate to detect leaks.

Response: The EPA is finalizing the proposed technology review revision under CAA section 112(d)(6) for heat exchange systems to use the Modified El Paso Method, with some minor technical clarifications that are discussed elsewhere in this section of this preamble and in the *Summary of Public Comments and Responses for the Risk and Technology Review for the Miscellaneous Organic Chemical Manufacturing Source Category,* available in the docket for this rulemaking. However, we disagree with commenters who said these proposed revisions are not cost effective. We believe that the developments we identified for heat exchange systems at MON sources are cost effective. We note that the existing MACT standards that were finalized in 2003 contain LDAR provisions; therefore, many of the costs mentioned by commenters (*i.e.,* planning, bypassing, various equipment rental/purchase costs, and costs for scaffolding) are associated with repair costs that would have already been incurred under the existing MACT standards. Also, many of the items associated with cost that are listed by the commenters are not required by the rule, and the commenters did not provide sufficient information

demonstrating why these costs represent an average heat exchange system at a MCPU. For example, facilities may have additional heat exchange system capacity available to them at their facility and may opt to use this capacity to repair the leak, at no additional expense, yet this was not considered by commenters.

Furthermore, because commenters did not provide information sufficient for us to evaluate the percentage of time additional leaks would have to be fixed under the proposed heat exchange system standards compared to the original MACT standards, we continue to believe that the majority, if not all, of the repair costs cited by commenters would have been accounted for and incurred as a result of the original MACT standards and that simply plugging a leaking heat exchanger would more likely represent the average cost additionally incurred by MON sources as a result of this technology review development. In addition, we stated in the proposed rule that we considered a heat exchanger that was leaking to the extent that it needed to be replaced to be effectively at the end of its useful life, so the cost of replacing the heat exchanger would be an operational cost that would be incurred by the facility as a result of routine maintenance and equipment replacement and not attributable to the work practice standard.

Thus, given all of this information, we continue to believe that the only costs that would be additionally incurred by the proposed heat exchange system standards would be costs associated with the difference between doing leak sampling using water sampling methods and leak sampling using the Modified El Paso Method as well as with costs associated with combined operator and maintenance labor to find and repair a leak by plugging it. We also maintain that for almost all MON facilities,[19] the use of the Modified El Paso method is much more sensitive in terms of being able to identify leaks of organic HAP compared to water sampling methods, and monitoring for a single surrogate parameter of organic HAP such as total strippable hydrocarbon can be easily accomplished with a single measurement using a common flame ionization detector (FID).

We note that, based on data collected for ethylene sources, we anticipate that the subsequent leak distribution would reasonably represent implementation of the Modified El Paso Method because it is the average leak distribution of 13 heat exchange systems at 6 ethylene facilities using this method. However, given that the initial leak distribution is based on a heat exchange system employing continuous Modified El Paso monitoring, it is likely that emission reduction estimates are understated given that the average MON facility does not have such readily available information on leaks and would only acquire such information on a quarterly basis using considerably higher leak sensitive test methods. In other words, and as described in more detail in our technology review memorandum for heat exchange systems (see *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which is available in the docket for this rulemaking), the initial leak frequency distribution would likely show considerably higher percentages of larger leaks due to the sensitivity of the current water sampling method requirements in the rule and due to the fact that the dataset was developed from facilities employing continuous monitoring as opposed to less frequent (*e.g.,* quarterly or monthly) monitoring. However, this was the best available data available to the agency, and so we used these conservative estimates. Based on our analysis, we find that the revised standards we proposed for heat exchange systems are cost effective at $8,530/ton of HAP without consideration of product recovery and the requirement has the potential to lead to a cost savings with product recovery. Therefore, we are finalizing the revisions for heat exchange systems that we proposed under the technology review with some minor technical clarifications that are discussed elsewhere in this document.

We also note, with respect to other rules where we have determined control options to not be cost effective at varying levels of cost effectiveness, that other compelling factors in those rulemaking records likely led the EPA to those determinations and that each rulemaking record is unique and should be judged based on its own merits. With respect to the two proposed rules commenters cite (*i.e.,* friction materials RTR and petroleum refinery RTR) where the EPA determined certain controls to not be cost effective, the EPA considers a number of rule-specific factors when determining what is, and what is not, cost effective. Regardless, and as stated above, we believe that the developments we identified for heat exchange systems at MON sources are cost effective, and we are finalizing these revisions under our CAA section 112(d)(6) authority.

Comment: Two commenters recommended the EPA revise the heat exchange system requirements to include an alternative mass-based leak definition because it would reduce the overall costs of the final rule. The commenters argued that by only defining a leak on a concentration basis, smaller facilities with lower heat exchange system recirculation rates would be forced to identify and fix leaks with a much lower potential HAP emissions rate than facilities with larger recirculation systems. The commenters provided the EPA with survey results showing that 69 heat exchange systems subject to the MON rule have recirculation flowrates between 200 gpm and 80,000 gpm, except for four systems that have a flowrate greater than 80,000 gpm and that the average cooling water flow rate is 43,500 gpm. Based on this information, the commenters suggested the EPA establish an alternative leak action level of 1.6 pounds per hour of total strippable hydrocarbon and a delay of repair action level of 16 pounds per hour of total strippable hydrocarbon for systems with a recirculation flowrate less than or equal to 40,000 gpm. Another commenter said that the EPA must reduce the leak definition and aim to achieve zero leaks. The commenter also supported the use of the Modified El Paso Method, pointing out that in the Ethylene Production RTR, the EPA found that at least 20 heat exchange systems (at eight facilities) are already required by TCEQ's HRVOC rule to conduct continuous Modified El Paso Method monitoring.

Response: We agree with commenters that an alternative mass-based leak action level is warranted (in lieu of a concentration-based leak action level) and that, by not finalizing such an alternative, smaller heat exchange systems with low recirculation rates would be disproportionally affected and forced to repair leaks with a much lower potential HAP emissions rate than facilities with larger recirculation rate systems. As commenters allude to, the goal of this alternative is to avoid

[19] We are aware of only one MON facility where it is possible that the only HAP that has potential to be present in a heat exchange system is methanol and/or ethylene glycol. In this specific case, the Modified El Paso method may not be as sensitive as water sampling methods; and the owners or operators of this facility could submit more detailed information regarding their specific situation to the EPA and request an alternative test method or an alternative monitoring method pursuant to 40 CFR 63.7(f) and 40 CFR 63.8(f), respectively. Under 40 CFR 63.7(f) and 40 CFR 63.8(f) (in subpart A—General Provisions), a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

disproportionally impacting small heat exchange systems with low emissions potential. To that end and given that this is a technology review under CAA section 112(d)(6), consideration of where it is cost effective to repair a leaking heat exchange system is a consideration for this alternative mass-based leak action level. In the technology review memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* available in the docket for this rulemaking, we determined that the nationwide impacts for HAP cost effectiveness (without consideration of product recovery) at $8,530/ton of HAP would be the HAP cost effectiveness for an average heat exchange system in the source category that has a recirculation rate of approximately 14,000 gpm. We also generally consider technology review developments to be near the upper end of acceptable cost effectiveness for organic HAP if the cost effectiveness is approximately $10,000/ton (or approximately 1.2 times higher than the cost effectiveness estimated for the average heat exchange system at MON sources). Since the recirculation rate directly correlates to mass emissions potential at the same leak concentration, the mass emissions for a heat exchange system with recirculation rate of 10,000 gpm or less (rounded to one significant figure) would be at least 1.2 times smaller compared to a 14,000 gpm recirculation rate system, and the annual costs to find and repair leaks would not change. As such, we determined that heat exchange systems with a recirculation rate of 10,000 gpm or less would be less cost effective to monitor and repair because the HAP cost effectiveness would be approximately $10,000/ton of HAP or more. Therefore, to alleviate the concern about disproportionally impacting small heat exchange systems with low HAP emissions potential, and to ensure our technology review developments are cost effective for all heat exchange systems in the source category, we are finalizing an alternative total hydrocarbon mass-based emissions rate leak action level (as methane) of 0.18 kilograms per hour (0.4 pounds per hour) for heat exchange systems in the Miscellaneous Organic Chemical Manufacturing source category that have a recirculation rate of 10,000 gpm or less. We also agree that for consistency, and to not disproportionately impact small heat exchange systems, an alternative mass-based leak action level of 1.8 kilograms per hour (4.0 pounds per hour) for delay of repair for heat exchange systems with a recirculation rate of 10,000 gpm or less is warranted.

c. Process Vents, Storage Tanks, Transfer Racks, and Wastewater Streams

Comment: Commenters supported the EPA's conclusion under the technology review that there are no cost-effective technology developments for process vents, storage tanks, transfer racks, and wastewater streams.

Response: We acknowledge the commenters' support for the EPA's technology review conclusions.

4. What is the rationale for our final approach for the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MON standards were originally promulgated on November 10, 2003 (68 FR 63852), and further amended on July 1, 2005 (70 FR 38562), and July 14, 2006 (71 FR 40316). Specifically, we focused our technology review on all existing MACT standards for the various emission sources in the Miscellaneous Organic Chemical Manufacturing source category, including, storage vessels, process vents, transfer racks, equipment leaks, wastewater streams, and heat exchange systems. In the proposal, we identified cost-effective developments only for equipment leaks and heat exchange systems, and we proposed to revise the standards for these two emissions sources under the technology review. We did not identify developments in practices, processes, or control technologies for process vents, transfer racks, storage tanks, and wastewater streams. Further information regarding the technology review can be found in the proposed rule (84 FR 69182, December 17, 2019) and in the supporting materials in the rulemaking docket at Docket ID No. EPA–HQ–OAR–2017–0357.

During the public comment period, we received several comments on our proposed determinations for the technology review. The comments and our specific responses and rationale for our final decisions can be found in section IV.B.3 of this preamble and in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking. No information presented by commenters has led us to change our proposed determination under CAA section 112(d)(6) for process vents, transfer racks, storage tanks, and wastewater streams, and we are finalizing our determination that no changes to these standards are warranted. However, substantive information was submitted by commenters on proposed revisions for equipment leaks. Based on these comments, we are finalizing revisions for equipment leaks and making some technical clarifications to clarify that the initial monitoring of equipment is only required if the new or replaced equipment is subject to Table 6 to 40 CFR part 63, subpart FFFF, and is also subject to periodic monitoring with Method 21 of appendix A–7 to 40 CFR part 60 and that the initial monitoring does not apply to equipment classified as unsafe-to-monitor or difficult-to-monitor equipment. In addition, substantive information was also submitted by commenters on proposed revisions for heat exchange systems, and based on this information, we are finalizing revisions to require the Modified El Paso Method for heat exchange systems. We are also making some technical clarifications to allow compliance with the Modified El Paso Method using an alternative mass-based leak action level instead of a concentration-based leak action level for small heat exchange systems with a recirculation rate of 10,000 gpm or less.

C. Amendments Pursuant to CAA Section 112(d)(2) and (3) and 112(h) for the Miscellaneous Organic Chemical Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(d)(2) and (3) and 112(h) for The Miscellaneous Organic Chemical Manufacturing source category?

Under CAA sections 112(d)(2) and (3) we proposed to amend the operating and monitoring requirements for a subset of flares in the Miscellaneous Organic Chemical Manufacturing source category. We proposed that the subset of flares include flares in the Miscellaneous Organic Chemical Manufacturing source category that either (1) control ethylene oxide emissions, (2) control emissions from processes that produce olefins, or (3) control emissions from processes that produce polyolefins. In our proposal, we also proposed that flares controlling propane dehydrogenation (PDH) processes be included in the specified subset since the PDH process produces olefins such as propylene. We also proposed at 40 CFR 63.2535(m) to clarify that owners or operators of flares that are not considered to be in the specified subset but are subject to the

flare provisions of 40 CFR 60.18 or 63.11 may elect to comply with the new proposed flare standards in lieu of the provisions of 40 CFR 60.18 or 63.11.

We proposed at 40 CFR 63.2450(e)(5) to directly apply the petroleum refinery flare rule requirements in 40 CFR part 63, subpart CC, to the flares in the specified subset with clarifications, including, but not limited to, specifying that several definitions in 40 CFR part 63, subpart CC, that apply to petroleum refinery flares also apply to the flares in the specified subset, adding a definition and requirements for pressure-assisted multi-point flares, and specifying additional requirements when a gas chromatograph or mass spectrometer is used for compositional analysis. Specifically, we proposed to retain the General Provisions requirements of 40 CFR 63.11(b) and 40 CFR 60.18(b) such that flares in the specified subset operate pilot flame systems continuously and that these flares operate with no visible emissions (except for periods not to exceed a total of 5 minutes during any 2 consecutive hours) when the flare vent gas flow rate is below the smokeless capacity of the flare. We also proposed to consolidate measures related to flare tip velocity and new operational and monitoring requirements related to the combustion zone gas for flares in the specific subset. Further, in keeping with the elimination of the SSM exemption, we proposed a work practice standard related to the visible emissions and velocity limits during periods when a flare in the specified subset is operated above its smokeless capacity (*e.g.,* periods of emergency flaring). We proposed eliminating the cross-references to the General Provisions and instead specifying all operational and monitoring requirements that are intended to apply to the flares in the specified subset in the MACT standards.

In addition, we proposed provisions and clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, maintenance activities, and certain gaseous streams routed to a fuel gas system to ensure that CAA section 112 standards apply continuously, consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008). For PRD releases, we proposed definitions at 40 CFR 63.2550 of "pressure release," "pressure relief device," and "relief valve" and under CAA section 112(h) we proposed a work practice standard for PRDs at 40 CFR 63.2480(e)(3), (6), and (7) that consists of using at least three prevention measures and performing root cause analysis and corrective action in the event that a PRD does release emissions directly to the atmosphere. (Examples of prevention measures include flow indicators, level indicators, temperature indicators, pressure indicators, routine inspection and maintenance programs or operator training, inherently safer designs or safety instrumentation systems, deluge systems, and staged relief systems where the initial PRD discharges to a control system.) We proposed that PRDs in ethylene oxide service may not vent directly to atmosphere. We also proposed to require that sources monitor PRDs that vent to atmosphere using a system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a pressure release has occurred. We proposed at 40 CFR 63.2480(e)(4) that PRDs that vent through a closed vent system to a control device or to a process, fuel gas system, or drain system must meet minimum requirements for the applicable control system. In addition, we proposed at 40 CFR 63.2480(e)(5) that the following types of PRDs would not be subject to the work practice standard for PRDs that vent to the atmosphere: (1) PRDs with a design release pressure of less than 2.5 pounds per square inch gauge (psig); (2) PRDs in heavy liquid service; (3) PRDs that are designed solely to release due to liquid thermal expansion; and (4) pilot-operated and balanced bellows PRDs if the primary release valve associated with the PRD is vented through a control system. Finally, we proposed at 40 CFR 63.2480(e)(8) to require future installation and operation of non-flowing pilot-operated PRDs at all affected sources.

For bypass lines on closed vent systems, we proposed at 40 CFR 63.2450(e)(6) that an owner or operator may not bypass the air pollution control device (APCD) at any time, and if a bypass is used, then the owner or operator must estimate and report the quantity of organic HAP released. We proposed and are taking final action on this revision because bypassing an APCD could result in a large release of regulated organic HAP to the atmosphere (the removal efficiency required by the MON ranges from 95 to 99.9 percent, depending on the type of emission source). The MON requirements we are finalizing thus provide the Agency with the information necessary to evaluate these incidents and determine whether enforcement action is necessary to address such releases to ensure they do not recur. We are also taking final action to allow the use of a cap, blind flange, plug, or second valve on an open-ended valve or line to prevent a bypass. For these reasons, we maintain that the MON as revised is consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), because the rule requires compliance with emission standards at all times as required by CAA section 112(d) and because the rule includes sufficient monitoring, recordkeeping and reporting requirements to allow the EPA to evaluate and address any unauthorized releases of HAP emissions.

For maintenance activities, we proposed a work practice standard at 40 CFR 63.2455(d)(1) requiring that, prior to opening process equipment to the atmosphere, the equipment must either (1) Be drained and purged to a closed system so that the hydrocarbon content is less than or equal to 10 percent of the LEL; (2) be opened and vented to the atmosphere only if the 10-percent LEL cannot be demonstrated and the pressure is less than or equal to 5 psig, provided there is no active purging of the equipment to the atmosphere until the LEL criterion is met; (3) be opened when there is less than 50 lbs of VOC that may be emitted to the atmosphere; or (4) for installing or removing an equipment blind, depressurize the equipment to 2 psig or less and maintain pressure of the equipment where purge gas enters the equipment at or below 2 psig during the blind flange installation, provided none of the other proposed work practice standards can be met. For cases where an emission source is required to be controlled in the MACT standards but is routed to a fuel gas system, we proposed that any flare receiving gases from that fuel gas system derived from an MCPU that has processes and/or equipment in ethylene oxide service or that produces olefins or polyolefins, and utilizing fuel gas whereby the majority (*i.e.,* 50 percent or more) of the fuel gas in the fuel gas system is derived from an MCPU, comply with the proposed flare operating and monitoring requirements.

More information concerning our proposed requirements under CAA section 112(d)(2) and (3) and 112(h) can be found in section IV.A of the proposal preamble (84 FR 69182, December 17, 2019).

2. How did the revisions pursuant to CAA section 112(d)(2) and (3) and 112(h) change since proposal?

The EPA is finalizing the revisions to the monitoring and operational requirements for flares, as proposed, except that we are not finalizing the work practice standard for velocity exceedances for flares operating above

their smokeless capacity. We are also clarifying in the final rule that a ''flare that controls ethylene oxide emissions'' is a flare that controls ethylene oxide emissions from affected sources in ethylene oxide service as defined in 40 CFR 63.2550. In addition, we are clarifying in the final rule that ''an MCPU that produces olefins or polyolefins'' include only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product; by-products and impurities as defined in 40 CFR 63.101, as well as wastes and trace contaminants, are not considered products.

Also, we are adding a separate degassing standard in the final rule at 40 CFR 63.2470(f) for storage vessels subject to control requirements based on comments that owners or operators have historically considered degassing emissions from shutdown of storage vessels to be covered by their SSM plans per 40 CFR 63.63.2525(j) and relied on the language in 40 CFR 63.6(e)(1) and 40 CFR 63.2450(a)(1) that back-up control devices are not required. The standard requires owners or operators to control degassing emissions for floating roof and fixed roof storage vessels until the vapor space concentration is less than 10 percent of the LEL. Storage vessels may be vented to the atmosphere once the storage vessel degassing concentration threshold is met (*i.e.,* 10-percent LEL) and all standing liquid has been removed from the vessel to the extent practical.

3. What key comments did we receive on the proposal revisions pursuant to CAA section 112(d)(2) and (3) and 112(h), and what are our responses?

This section provides comment and responses for the key comments received regarding our proposed revisions for flares and clarifications for periods of SSM, including PRD releases and storage vessel emptying and degassing. Other comment summaries and the EPA's responses for additional issues raised regarding these activities, as well as issues raised regarding our proposed revisions for bypass lines on closed vent systems, maintenance activities, and certain gaseous streams routed to a fuel gas system, can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

a. Flares

Comment: We received comments in support of our proposal to establish similar requirements for flares (controlling ethylene oxide or emissions from processes that produce olefins and/or polyolefins) used in the Miscellaneous Organic Chemical Manufacturing source category as the flare requirements established in the 2015 Petroleum Refinery NESHAP, including the incorporation of the net heating value of the combustion zone gas (NHVcz) calculation and limits. One commenter said they supported the proposed strengthened operational and monitoring requirements because of the toxic nature of ethylene oxide and the photochemical reactivity of the olefins and polyolefins emissions.

Another commenter cited various enforcement cases where the EPA found flare efficiency problems and applied flare operational and monitoring improvements to chemical plants. The commenter said that because MON sources do not currently have separate flare management plan requirements (as refineries do under CAA section 111 NSPS standards), it is particularly important and necessary for the EPA to update the flare requirements in this rule to assure that flares are working correctly to reduce HAP emissions. Also, the commenter reiterated the EPA's determination that measuring the net heating value of the flare gas, as it enters the flares, is insufficient to determine combustibility because facilities add steam and other gases not accounted for and that flare performance data shows that the net heating value of vent gas in the combustion zone must reach at least 270 British thermal units per standard cubic foot (Btu/scf). Some commenters also supported the EPA's proposal ''that owners or operators may use a corrected heat content of 1,212 Btu/scf for hydrogen, instead of 274 Btu/scf, to demonstrate compliance with the NHVcz operating limit,'' because the data show that the control efficiency of a flare drops off significantly below this level. However, the commenters also suggested other improvements to the proposed flared revisions. The commenters recommended that the EPA also consider the following measures to help assure compliance with 98-percent destruction efficiency and said that these measures should be evaluated under CAA section 112(d)(6).

- Revise the standards to account for ''developments'' that improve emissions controls by eliminating or drastically reducing routine flaring, such as augmented flare capacity;
- The HAP emission rates from flares during malfunctions when process gases are routed to flares from process equipment should not be less stringent than the emission limits that apply to such units during normal operations.
- Set further limits on routine flaring that comply with CAA section 112(d)(2) and (3), and 112(f).
- Require continuous video monitoring and recording for flares equipped with video monitoring and flares that vent more than 1 million scf per day.[20]
- Set limits on flaring that require flare gas recovery and other steps to reduce regular and routine flaring.

Response: Except for minor clarifications discussed in the response to comment document for this rulemaking, the EPA is finalizing the flare operational and monitoring requirements at 40 CFR 63.2450(e)(5), as proposed, as supported by several commenters. We disagree with one commenter's request that we mandate additional measures to ensure 98-percent flare destruction efficiency on top of those being finalized in this action under our CAA section 112(d)(2) and (3) authority. Flares are one of many APCDs that owners or operators of MCPUs can use to control HAP emissions from the Miscellaneous Organic Chemical Manufacturing source category and are not specific affected emission sources in the Miscellaneous Organic Chemical Manufacturing source category; thus, the flare requirements we are finalizing are already designed to ensure flares meet a minimum destruction efficiency of 98 percent, consistent with the MACT control requirements.

We disagree with commenters that we should impose the additional measures for flares under our CAA section 112(d)(6) authority because the revisions to the flare requirements are associated with compliance with the MACT standards established pursuant to CAA sections 112(d)(2) and (3). The rulemaking record contains the analyses on options we analyzed for our technology review, and owners or operators of MCPUs can chose from a variety of APCDs to demonstrate

[20] Commenter provided the following reference: See 84 FR 54296; BAAQMD sec. 12–11–507: Requiring continuous video monitoring and recording for flares equipped with video monitoring and flares with vent gas more than 1 million scf/day; SCAQMD Rule 1118(g)(7): Requiring continuous video monitoring and recording; Consent Decree, *United States of America* v. *Marathon Petroleum Company LP et al.,* No. 12–cv–11544 (E.D. Mich.) (April 5, 2012); Consent Decree, *United States of America et al.* v. *BP Products North America Inc.,* No. 12–cv–0207 (N.D. Ind.) (May 23, 2012); Consent Decree, *United States of America* v. *Shell Oil Company et al.,* No. 13–cv–2009 (S.D. Tex.) (July 10, 2013); Consent Decree, *United States of America* v. *Flint Hills Resources Port Arthur, LLC,* No. 14–cv–0169, at 12 (E.D. Tex.) (March 20, 2014).

compliance with the underlying MACT standards. Notably the commenter does not recommend similar actions to minimize or eliminate the use of thermal oxidizers, carbon absorbers, or other control devices that may be employed to control HAP emissions from the affected emission sources at an MCPU. Eliminating the routine use of flares as an acceptable APCD would only increase the use of these other types of APCD (at potentially significant cost) without any net emissions reductions from the MCPU (provided that the flare is meeting the required control efficiency). In addition, flare gas recovery has not been demonstrated at MCPU in the Miscellaneous Organic Chemical Manufacturing source category, and commenters did not provide sufficient information about requiring use of such systems specific to this source category.

We disagree with the commenter's specific request to require continuous video monitoring and recording for flares equipped with video monitoring and flares that vent more than 1 MMscf/day. We are not removing the requirement to conduct EPA Method 22 monitoring because it has always been required for flares; however, because EPA Method 22 does not allow the use of a video camera, we have provided for the use of video camera surveillance monitoring in the final rule as an alternative to EPA Method 22 monitoring. Observation via the video camera feed can be conducted readily throughout the day and will allow the operators of the flare to watch for visible emissions at the same time they are adjusting the flare operations. We note that in order for an owner or operator to be able to use the video camera surveillance monitoring option, the owner or operator must continuously record (at least one frame every 15 seconds with time and date stamps) images of the flare flame at a reasonable distance above the flare flame and at an angle suitable for visual emissions observations. The owner or operator must also provide real-time video surveillance camera output to the control room or other continuously manned location where the camera images may be viewed at any time.

Lastly, with respect to consent decrees cited by the commenter, we note that the requirements in consent decrees are negotiated settlements and are not based on any analysis required in CAA section 112 and do not factor in nationwide impacts specific to a source category of concern, which in this case is the Miscellaneous Organic Chemical Manufacturing source category.

Comment: Commenters requested the EPA clarify in 40 CFR 63.2450(e)(5) that the requirements only apply to (1) flares controlling emissions from sources in ethylene oxide service as defined in 40 CFR 63.2550 and (2) flares used as an APCD to comply with the emission limits and work practice standards in Tables 1, 2, 4, and 5 to 40 CFR part 63, subpart FFFF, for emission sources located at MCPUs that produce olefins and/or polyolefins. A commenter said that the introductory language in 40 CFR 63.2450(e)(5) is ambiguous and appears to indicate that a flare that controls any amount of ethylene oxide or any amount of other HAP from olefins or polyolefins production processes would be subject to the proposed requirements. In addition, the commenter requested that the EPA limit the applicability of the revised provisions to those MCPUs producing lighter olefins and polyolefins and that heavy olefin (*e.g.,* hexene) and heavy polyolefin (*e.g.,* polybutene) production should be excluded because heavier materials used in such processes have much less potential to be flared. The commenter requested that the EPA define the phrase "MCPUs that produce olefins or polyolefins" and said that MCPUs may generate olefins or polyolefins as a by-product or impurity and these small amounts of materials do not justify the compliance costs associated with meeting the new flare requirements. The commenter recommended the EPA adopt definitions similar to those for "Product, By-product," and "Impurity" found in the HON (*i.e.,* 40 CFR 63.101).

Other commenters said the EPA must apply the proposed flare improvements to all MON flares, not just the subset that controls ethylene oxide and emissions from olefin/polyolefin processes. One commenter said that the refinery flare requirements, as proposed, will only apply to 16 of 145 flares in the source category and reiterated that this is less than 10 percent of the flares in the Miscellaneous Organic Chemical Manufacturing source category. The commenter said the EPA did not sufficiently explain why the flare improvements should not be applied to all MON flares.

Response: First, as a general matter, the Miscellaneous Organic Chemical Manufacturing source category broadly encompasses a wide variety of chemical production processes not covered elsewhere under other 40 CFR part 63 NESHAP and, as such, is a "catch all" for a wide variety of processes producing various types of chemical products. The primary goal of applying the new suite of flare requirements to a certain flare subset is two-fold: (1) To ensure continuous compliance with the MON MACT standards at all times for the largest flare systems in the source category where the Agency has compelling data that show that the flare types and vent gases being controlled (*e.g.,* olefinic vent gases that contain ethylene and/or propylene) could have deteriorated flare performance issues, and (2) to ensure continuous compliance with the MON MACT standards at all times for flare systems controlling ethylene oxide, the cancer risk driving HAP for the source category. In particular, when the EPA reviewed available data about flare APCDs being used in the Miscellaneous Organic Chemical Manufacturing source category and the potential for deteriorated combustion efficiencies to occur during certain modes of operation (*e.g.,* over-assisting steam-assisted flares), we determined that vent gases consisting of olefinic material can be over-assisted and that flare performance for these types of MCPUs could be diminished (*i.e.,* consistent with the passive fourier transfer infrared spectrometry (PFTIR) test data reviewed and that formed the basis of the Petroleum Refinery requirements at 40 CFR part 63, subpart CC, we cross-reference in this final rule for the MON). In addition, the EPA has recently reviewed and approved a number of AMEL requests from MON facilities that produce olefins/polyolefins, and this subset of facilities in the Miscellaneous Organic Chemical Manufacturing source category comprises the largest flare systems in the source category, making issues of deteriorated flare performance of particular concern. With respect to flares controlling emissions of ethylene oxide, the EPA also wanted to ensure that these flare systems would be subject to more stringent compliance assurance requirements to ensure over-assisting does not occur for these flare types given risks associated with ethylene oxide in the source category. Thus, these two criteria were chosen to constitute the basis of our flare subset given both the data before us and the concern for potential risk issues if deteriorated flare performance were to occur for flares controlling emissions of ethylene oxide from the source category. Given that we do not have sufficient data about the types of flares and flare vent gases that the other various MCPUs outside the flare subset would be controlling, we are unable to determine whether the new suite of flare requirements would be necessary or warranted as the existing suite of flare requirements may be sufficient for these

other flares. Commenters did not provide the Agency with any information about this, including test data, flare vent gas characteristics, and specific instances of deteriorated flare performance for flares outside the flare subset, thus we disagree that we should broadly apply these new flare requirements to all flares in the source category without this information. We note, however, that we proposed and are finalizing as an alternative that owners or operators of flares outside the flare subset may opt to comply with the new suite of flare requirements should they choose.

With respect to comments requesting the EPA to clarify what was meant when referring to production of olefins and/or polyolefins, we are adding a definition for "MCPUs that produce olefins or polyolefins" for purposes of the new suite of flare requirements only and clarifying that these MCPUs include production of ethylene, propylene, polyethylene, and polypropylene given that these are the largest flare systems in the Miscellaneous Organic Chemical Manufacturing source category and because they are controlling olefinic vent gases that contain ethylene and propylene, which have been shown in our data to exhibit certain operating scenarios where over-assisting and deteriorated flare performance could occur.

Lastly, we agree with commenters that the language at 40 CFR 63.2450(e)(5) could be construed as ambiguous for purposes of controlling ethylene oxide emissions. As such, we are clarifying in the rule text that our intent was to control all emissions generated from affected sources "in ethylene oxide service," as that term is defined in the final rule.

Comment: We received comments in support of and against the proposed work practice requirements for visible emissions and flare tip velocity. One commenter said that MON flares operate similarly to refinery flares in that MON flares are typically designed with a "smokeless capacity" for normal operations and a "hydraulic load capacity" to handle large volumes of flare gas in an emergency. The commenter said that it was reasonable for the EPA to use smoking and tip velocity events reported for ethylene production and refineries to develop emergency flaring provisions for the Miscellaneous Organic Chemical Manufacturing source category because the data on the number of visible emissions events and velocity exceedances for MON flares are not comprehensive of all MON facilities in the subset identified by the EPA. However, the commenter said that because ethylene flares are twice as likely to have visible emissions events as refinery flares, and because it is reasonable to use smoking event data for ethylene flares to represent MON flares, the EPA should set the backstop for the work practice standard to 6 smoking events in 3 years for MON flares in the identified subset.

Another commenter objected to the EPA's proposed emergency flaring provisions for smoking flares and said that the provisions are arbitrary and capricious because they do not meet the requirement from CAA section 112(h) that work practice standards be consistent with CAA section 112(d)(2) and (d)(3). The commenter argued that the EPA's assumption regarding the frequency of emergency flaring events using events at refineries and ethylene production facilities does not satisfy the requirement in CAA section 112(d)(2) that the Administrator "determine" what is achievable regarding the frequency of emergency flaring events. The commenter said the EPA's reliance on data from refineries and ethylene production facilities, and lack of analysis of the frequency of emergency flaring events at MON facilities, means that the exemption provision violates the CAA section 112(d) requirement that the EPA determine what is achievable for sources "in the category or subcategory to which such emission standard applies." The commenter requested that the EPA remove the emergency flaring provisions because the EPA needs to collect data from MON sources to set a standard that could satisfy CAA section 112(d)(2) and (d)(3).

In addition, the commenter said that even though the visible emission exemption at issue is for smoking flare events when flares are operating above their smokeless capacity, the EPA (in the present proposed rule, as well as in its analyses regarding refinery and ethylene production flares) only reached conclusions and analyzed data regarding what is achievable for smoking flare events regardless of whether the flares were operating above or below their smokeless capacity. The commenter argued that the EPA has not determined what is achievable for flares when operating above their smokeless capacity. The commenter also said the EPA has not performed any analysis of how often the best performers would exceed flare tip velocity limits when operating above smokeless capacity, and the EPA has only purported to analyze smoking flare events (without regard to whether the events occurred above smokeless capacity). The commenter stated that the EPA also ignored data that contradict its conclusion regarding the exemption allowing flare tip velocity events because the ACC data that the EPA relied upon to establish the emergency flaring exemption in the ethylene production proposal reported no tip velocity events among any of the 45 flares from the ACC survey. The commenter contended that the ACC data suggest that the best performing flares (at least at ethylene production facilities) would have zero tip velocity exceedances over three years, meaning that the EPA's conclusion that the best performers would have one or two exceedances over that same period is arbitrary and capricious and contrary to CAA section 112(d). The commenter stated that, unlike the MON proposed rule, the EPA finalized in the Ethylene Production RTR rulemaking the requirement that the maximum flare tip velocity operating limit applies at all times.

Response: We are taking final action on the proposed work practice requirements for visible emissions and flare tip velocity as several commenters suggested. We disagree that we should set the backstop for the work practice standard to 6 smoking events in 3 years for MON flares in the identified subset. The commenter did not provide enough data (*i.e.,* information on visible emissions from MON flares in the identified subset) for the EPA to justify revising the proposed requirements. We also disagree with another commenter that we did not analyze the frequency of emergency flaring events at MON facilities and that reliance on data from refineries and ethylene production facilities means that the exemption provision violates the CAA section 112(d) requirement that the EPA determine what is achievable for sources "in the category or subcategory to which such emission standard applies." We contend that the data used in our analysis represents the best available data available to the agency for the Miscellaneous Organic Chemical Manufacturing Source Category. As stated in our technical memorandum, *Control Option Impacts for Flares Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0006), although ACC provided some information about visible emissions events and velocity exceedances for MON flares, the data are not comprehensive of all MON flares in the identified subset. Therefore, we did not use the ACC data to determine the number of smoking and tip velocity events that we used in our analysis for

the Miscellaneous Organic Chemical Manufacturing source category, but rather this information is based on smoking and tip velocity events reported for two different source categories (refineries and ethylene production). Best performing flares at refineries have events once every 6 years, and ethylene flare best performers have events once every 7 years. We noted that some flares control process gases from both the Miscellaneous Organic Chemical Manufacturing source category and from the Ethylene Production source category at the same facility. Therefore, we surmised that it is likely that MON flares in the identified subset would have a visible emissions event between every 6 and 7 years. As a conservative approach, we then concluded the best performing MON flares in the identified subset have a visible emissions event once every 7 years. Even if the best-performing flare "typically" only has one event every 7 years, the fact that visible emissions events are random by nature (unpredictable, not under the direct control of the owner or operator) makes it difficult to use a short term time span to evaluate a backstop to ensure an effective work practice standard. Thus, when one considers a longer time span of 20 years, our analysis shows that 3 smoking events in 3 years would appear to be "achievable" for the average of the best performing flares. That said, we do acknowledge that the data we received from ACC's survey from the Ethylene Production source category identifies zero exceedances of the flare tip velocity during a smoking event. Also, the MON-specific data that ACC provided is limited to only one MON facility, of which 44 of these events were associated with pressure-assisted flares, and no velocity events were reported by any other MON site. Thus, we agree with the commenter that our proposed determination of the frequency of these velocity events at the best performing sources is not supported, and we are not finalizing the proposed work practice standard for when the flare vent gas flow rate exceeds the smokeless capacity of the flare and the tip velocity exceeds the maximum flare tip velocity operating limit. Instead, we are finalizing provisions that require compliance with the maximum flare tip velocity operating limit at all times, regardless of whether the flare is operating above its smokeless capacity.

b. PRDs

Comment: Several commenters supported the PRD work practice requirements, agreeing it is technically and economically infeasible to establish emission limitations for PRDs that are not designed to vent through a control system. The commenters added that the EPA's approach meets their obligations under CAA section 112. One commenter noted that even states that have stringently regulated PRDs, such as California, have not established numerical emissions limits. The commenter added that because these events are triggered by a variety of non-routine process conditions across a variety of different processes, there is no MACT-level technology that can be applied to this category of PRDs to limit emissions to a certain quantity or concentration. The commenter noted that the MACT requirements should be consistent with other regulatory obligations such as the OSHA Process Safety Management (PSM) program and the EPA CAP program.

Another commenter contended that work practice standards are only allowed in lieu of numerical emission standards under narrow circumstances, and the EPA may not set work practice standard unless the EPA determines that the pollutant cannot be emitted "through a conveyance designed and constructed to emit or capture such pollutant" or that "application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations." The commenter added that even when the EPA sets a work practice standard, such a standard must require the "maximum" degree of emission reduction "achievable" and still be consistent with section 112(d)(2) and (3) to apply continuously. The commenter added that work practice standards for PRDs are not allowed because traditional emission restrictions are feasible to restrict the excess emissions the EPA seeks to authorize. The commenter noted that CAA section 112(h) requires the EPA to make a very specific finding that numeric emissions are infeasible, and the EPA has not satisfied that requirement for PRDs. The commenter claimed that the EPA's assertion that emissions cannot be measured is contradicted by its requirement that sources calculate their emissions during any PRD release to the atmosphere, and the EPA's reporting and recordkeeping requirements mandate facilities "calculate the quantity of organic HAP released during each pressure release event." The commenter also noted that local jurisdictions require monitoring to measure such releases.

A commenter contended that because PRDs at MON sources are currently uncontrolled, the EPA must set a standard that satisfies CAA section (d)(2) and (3) and reflects what the relevant best-performing existing sources have "achieved" and the "maximum achievable degree of emission reduction." The commenter continued that the EPA must set the floor by assessing the emissions limitation achieved by the best performing 12 percent of existing sources and that cost cannot be considered in setting the MACT floor, per CAA section (d)(3). The commenter contended the EPA must set a zero-emission limit for all PRDs because the best-performing PRDs emit nothing. The commenter stated that in the proposed rule, the EPA has not attempted to evaluate the actual performance of PRDs at MON sources. The commenter added that in the absence of emissions data, the EPA may infer that the MACT floor is at least as stringent as an existing regulatory limit, such as California's South Coast Air Quality Management District (SCAQMD) and the Bay Area Air Quality Management District (BAAQMD) for similar sources. The commenter noted that both agencies have adopted more stringent emission limitations and leak and repair programs. The commenter also added that the EPA has ample emissions data demonstrating that emissions of at least 12 percent of existing PRDs nationwide reflect at least the use of a well-performing flare. As an example, the commenter stated that the TCEQ data the EPA relied on in the ethylene production rule demonstrated that 23 percent of facilities had no atmospheric releases on a properly operating PRD. Another commenter also said the EPA should evaluate the data that SCAQMD is considering in that rulemaking and further strengthen the requirements for MON sources.[21]

One commenter contended that the EPA did not analyze the cost of construction and installation of continuous monitoring systems in order to measure release events for PRDs that vent to atmosphere. The commenter noted that the EPA's reporting and recordkeeping requirements mandate facilities "calculate the quantity of organic [hazardous air pollutants] released during each pressure release event" and that a SCAQMD report

[21] Commenter provided the following reference: SCAQMD, Rule and Control Measure Forecast (Mar 6, 2020), *http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2020/2020-mar6-016.pdf?sfvrsn=6*, (stating that SCAQMD is considering proposed revisions to "improve the effectiveness, enforceability, and clarity of the rule. Other proposed amendments may be needed to further reduce emissions from operations, implement early leak detection, odor minimization plans, and enhanced emissions and chemical reporting").

found that "new (wireless) technology allows continuous monitoring of PRDs without significant capital expense and makes it easy for operators to identify valve leaks." The commenter added that there are multiple vendors of this technology, including one vendor with whom the EPA met during the refineries rulemaking, and this technology is already in use at refineries in the United States. The commenter claimed that refineries have found that implementing this kind of monitoring technology saves money. The commenter added that in the ethylene production rulemaking, the EPA relied on TCEQ data from seven ethylene production facilities that reported the quantity of HAP emissions released during specific PRD release events indicating that not only is it possible to measure PRD emissions, but also that they actually have been measured and that the EPA itself acknowledges this fact.

Response: We disagree with some commenters' assessment that numeric emission limit standards are feasible and must be established for PRDs that vent to the atmosphere. We are finalizing a work practice standard for PRDs, as proposed, that consists of using at least three prevention measures and performing root cause analysis and corrective action in the event that a PRD does release emissions directly to the atmosphere. We also maintain the rationale provided in the proposal preamble (84 FR 69207, December 17, 2019) for this work practice standard, where we specifically considered the issue related to constructing a conveyance and quantitatively measuring PRD releases and concluded that these measures were not practicable and that a work practice standard was appropriate. Owners or operators can estimate the quantity of HAP emissions released during a PRD release event based on vessel operating conditions (temperature and pressure) and vessel contents when a release occurs, but these estimates do not constitute a measurement of emissions or emission rate within the meaning of CAA section 112(h). The monitoring technology suggested by the commenter is adequate for identifying PRD releases and is one of the acceptable methods that facility owners or operators may use to comply with the continuous monitoring requirement. However, we disagree that it is adequate for accurately measuring emissions for purposes of determining compliance with a numeric emission standard. For example, the technology cited by the commenter is a wireless monitor that provides an indication that a PRD release has occurred, but it does not provide information on either release quantity or composition. PRD release events are characterized by short, high pressure, non-steady state conditions that make such releases difficult to quantitatively measure. As discussed in the proposal preamble (84 FR 69207, December 17, 2019), we have not identified any available, technically feasible CEMS that can accurately determine a mass release quantity of VOC or HAP given the flow, composition, and composition variability of potential PRD releases that vent to the atmosphere from MCPUs. Therefore, it is also economically infeasible at this time to establish emission limitations for PRDs given that no such system exists. As such, we maintain our position that the application of a work practice standard is appropriate for PRDs.

As a general matter, CAA section 112 requires MACT for existing sources to be no less stringent than "the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information) . . ." [(CAA section 112(d)(3)(A)]. "Emission limitation" is defined in the CAA as ". . . a requirement established by the State or Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard promulgated under this chapter" [CAA section 302(k)]. The EPA specifically considers existing rules from state and local authorities in identifying the "emission limitations" for a given source. We then identify the best performers to identify the MACT floor (the no less stringent than level) for that source. The EPA identified the requirements established in the SCAQMD and BAAQMD rules,[22] and the Chemical Accident Prevent Provisions rule (40 CFR part 68) as the basis of the MACT floor because they represented the requirements applicable to the best performing sources. Work practice standards are established in place of a numeric limit where it is not feasible to establish such limits. Thus, in a case such as this, where the EPA has determined that it is appropriate to establish work practice standards, it was reasonable for the EPA to identify the rules that impose the most stringent requirements and, thus, represent what applies to the best performers, and then to apply the requirements from those rules as MACT.

We recognize that the proposed standard for PRDs did not exactly mirror the SCAQMD, BAAQMD, or Chemical Accident Prevent Provisions rules, but we consider the requirements to be comparable. For example, we did not include a provision similar to that in the SCAQMD rule that excludes releases less than 500 lbs/day from the requirement to perform a root cause analysis; that provision in the SCAQMD rule does not include any other obligation to reduce the number of these events. Similarly, we did not include a provision that only catastrophic PRD releases must be investigated. Rather than allowing unlimited releases less than 500 lbs/day or that are not considered catastrophic, we require a root cause analysis for releases of any size. Because we count small releases that the SCAQMD rule does not regulate at all, we considered it reasonable to provide a higher number of releases prior to considering the owner or operator to be in violation of the work practice standard. We also adopted the three prevention measures requirements in the BAAQMD rule with limited modifications. We also note that a facility cannot simply choose to release pollutants from a PRD; any release that is caused willfully or caused by negligence or operator error is considered a violation.

Comment: Two commenters supported subcategorizing PRDs and agreed with the EPA's rationale for doing so. However, one commenter contended that the EPA has unlawfully categorized PRDs by control (*i.e.,* PRDs that vent through a closed vent system to a control device or to a process, fuel gas system, or drain system and PRDs that vent to the atmosphere). The commenter added that the best-controlled PRDs are routed to processes with no discharge to the environment, and well-controlled PRDs are vented to a control system rather than directly to the atmosphere. The commenter stated that the EPA must determine the appropriate MACT floor for new and existing PRDs based on the best performing PRDs and also require "beyond the floor" options, but because PRDs nationwide reflect at least the use of a control system, the EPA may not establish a limitation that is less stringent than venting to a control system. The commenter contended that because the best-controlled PRDs have

[22] While there are not MON facilities in the SCAQMD or BAAQMD, as stated in the proposal preamble (84 FR 29207), we believe that MON facilities are complying with these rules via company-wide best practices. There are companies that own MON facilities and petroleum refineries, and there are petroleum refineries located in these AQMDs.

no emissions, the EPA must set a zero-emission limit for all PRDs.

One commenter also contended that the EPA did not explain why additional flares cannot be installed by MON facilities to meet a standard prohibiting uncontrolled PRD releases. The commenter stated that the EPA did not estimate the number of new flares that would be installed, based on data of the number of atmospheric PRDs reported at MON facilities.

Response: Regarding subcategorization of PRDs, the only information we have available about when PRD releases occur is from those PRDs that release directly to atmosphere (see the technical memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Miscellaneous Organic Chemical Manufacturing Source Category,* available in the docket for this rulemaking, see Docket Item No. EPA–HQ–OAR–2018–0746–0010). The work practice standard we are finalizing provides a comprehensive program to manage entire populations of PRDs; includes prevention measures, continuous monitoring, root cause analysis, and corrective actions; and addresses the potential for violations for multiple releases over a 3-year period. We followed the requirements of section 112 of the CAA, including CAA section 112(h), in establishing what work practice constituted the MACT floor. We provide further details on our rationale to develop a work practice standard in previous responses to comments in this section of this preamble and the preamble to the proposed rule.

We disagree with the comment that the EPA did not explain why additional flares could not be installed to control releases from PRDs. We conducted a beyond-the-floor analysis at proposal that examined the option of controlling all PRDs with a control device. 84 FR 69209. As part of this analysis, we estimated for all MON facilities, assuming 25 percent to 50 percent of PRDs already vent to a control device, the capital cost for controlling the remaining PRDs ranges from $2.54 billion to $5.07 billion, and the annualized cost ranges from $330 million to $660 million. Because the incremental cost effectiveness for requiring control of all PRDs that vent to atmosphere exceeds $80 million per ton of HAP reduced, the beyond-the-floor option was determined not to be cost-effective. Details of the beyond-the-floor analysis are available in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0010).

Comment: We received comments in support of and against the proposed requirements allowing PRDs to discharge to the atmosphere. Some commenters supported allowing a limited number of PRD releases at MON facilities. The commenters supported the EPA's assessment that even at the best performing sources, releases from PRDs are likely to occur and cannot be safely or economically routed to a control device. Two commenters contended there was a wide variety of situations that can trigger a PRD actuation and noted it was impossible to predict which PRDs will release during a given year. One commenter opposed any limit on the number of PRD releases because they are needed for safety reasons. However, the commenter added that if the EPA is going to finalize a limit on the number of authorized PRD venting events, they supported allowing more than one release in a 3 calendar year period.

Two commenters identified several situations where PRDs are designed to vent to the atmosphere instead of a flare or other control device due to safety concerns. One commenter also identified situations where it was technically not possible to collect discharges from PRDs. One commenter supported the EPA's conclusion that it was not cost effective to control all PRDs that vent to the atmosphere.

Another commenter noted that PRDs on process equipment such as distillation columns and steamers are typically intended for emergency venting, and these devices are the last (mechanical) line of defense to avoid over-pressurization situations. The commenter added that pollution control devices are intended for normal process operations and are not commonly designed to handle the flow that would result from an emergency PRD release. The commenter concluded that the capture of releases from emergency over-pressurizations has the potential to create a new hazard.

One commenter opposed allowing PRDs to discharge to the atmosphere. The commenter stated that the EPA cannot use CAA section 112(h) to circumvent the emission standards of equipment connected to PRDs and smoking flares through uncontrolled releases from these devices. The commenter cited the court decision *U.S. Sugar Corp.* v. *EPA, 830 F.3d* at 608 (D.C. Cir. 2016) that exemptions "cannot be framed in simple numerical terms, as, say, an allowance of four excessive discharges per year," as doing so would give emitters "a license to dump wastes at will on several occasions annually," and *Weyerhaeuser Co.* v. *Costle, 590 F.2d* at 1011, 1057 (D.C. Cir. 1978) that "no control" is not a standard—it is an exemption. The commenter continued to cite *Weyerhaeuser Co.* v. *Costle* that malfunctions and *force majeure* events are appropriately dealt with through "the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation." The commenter contended that finalizing these exemptions would incentivize facilities to install redundant PRDs or flares, and operators could cycle through PRDs, sealing off each one after a release event to avoid repeated violations of the underlying equipment's emission standards. The commenter added that emissions could be routed away from controlling flares to an endless number of cycling pressure release devices resulting in unlimited emissions with no technical violation. The commenter concluded that treating releases from PRDs and smoking flares as violations would incentivize operators to do the planning/maintenance, etc., to eliminate the root causes of these releases.

The commenter stated that allowing PRD releases is not consistent with the technology-forcing requirements from CAA section 112(d) and is arbitrary and capricious. The commenter contended that neither the proposed rule nor the EPA's supporting memorandum regarding the work practice standards for PRD releases to the atmosphere discusses whether the number of uncontrolled releases that would be a violation of the standard reflects what is achievable under CAA section 112(d). The commenter added that the exemption violates CAA sections 112(d) and (h) because the EPA has not analyzed what the best performers can achieve with respect to the number of uncontrolled PRD releases to the atmosphere. The commenter contended that the EPA's conclusions were based on a Monte Carlo analysis of random rare events conducted for the Petroleum Refinery Sector rule, for smoking flare events—not PRD releases. The commenter added that the EPA has conducted no analysis of how often the best performing MON facilities have uncontrolled PRD releases to the atmosphere. The commenter concluded that because the EPA did not analyze the rate of PRD releases at MON facilities, the EPA's exemption for PRD releases to the atmosphere is contrary to CAA section 112(h) in that work practice standards be "consistent with the provisions of subsection (d) or (f)." The commenter noted that CAA section

112(d) mandates that standards require the ''maximum'' degree of reduction in emissions that the Administrator ''determines is achievable'' for sources ''in the category or subcategory to which such emission standard applies.''

The commenter added that the EPA did not ''determine'' what is ''achievable'' for PRDs, as required by CAA section 112(d)(2) through (3), because the EPA only analyzed what is achievable for flares. The commenter contended that PRDs are not flares, and vice versa, and PRDs could release to the atmosphere at much different rates from the rates at which flares have smoking events. The commenter stated that even if the EPA could lawfully and non-arbitrarily base the limit on MON PRD releases to the atmosphere on the rate at which flares at refineries supposedly have smoking events, the industry data and analysis that the EPA relies upon to try to craft the exemption has problems that also render it contrary to statutory requirements and is arbitrary and capricious. The commenter explained that the analysis began by relying on an unsubstantiated industry claim that an American Petroleum Institute and American Fuel & Petrochemical Manufacturers survey of 148 flares (which industry said was around 30 percent of flares) showed that, on average, a flare will have a smoking event once every 4.4 years. The commenter added that working from the unsubstantiated industry rate of one event every 4.4 years, the EPA then just assumed without support that the best performers would have an event once in every six years (*e.g.,* better than the average of once every 4.4 years). The commenter stated that the EPA then used that assumed and unsubstantiated once-per-six-years frequency to conduct its Monte Carlo analysis. The commenter contended that the EPA's assumption that the best performers would have one event every six years cannot satisfy CAA section 112(d)'s command that the agency determine what the best performers can achieve, nor does that assumption satisfy the requirements that the agency engage in non-arbitrary rulemaking and support its factual determinations with substantial evidence. The commenter also added that the assumptions that the EPA made regarding the rate of PRD releases to the atmosphere in establishing the exemption conflict with the assumptions that the EPA made regarding those releases in calculating the cost for MON facilities to implement the work practice standard, rendering the exemption arbitrary and capricious. The commenter stated that the EPA based the PRD exemption on an analysis that assumed that the best performing flare would have a 16.7-percent probability of having an event every year, and the cost analysis assumed that only 10 percent of PRDs at MON facilities would have a release every year. The commenter also added that information collected for its recent proposed NESHAP rule for ethylene production facilities showed that only 4.4 percent of PRDs in that source category would release to the atmosphere annually. The commenter stated that the EPA's cost analysis only looked to the release rates for all PRDs and not the best-performing ones. The commenter stated that the best performers would presumably release to the atmosphere even less frequently. The commenter added that compliance data for refinery PRDs shows that those devices release to the atmosphere far less frequently than the EPA assumes and that the best-performing uncontrolled PRDs are likely to have no atmospheric releases over a 3-year period. Another commenter concluded that the EPA's proposal to give each uncontrolled PRD one or two free passes before an atmospheric release becomes a deviation is inconsistent with CAA section 112(d)(2) and (3) and arbitrary and capricious. The commenter reviewed some compliance reports from calendar year 2019 for refineries and determined that among the 998 uncontrolled PRDs, there was only one 3-minute release to the atmosphere. The commenter calculated that these 998 uncontrolled PRDs would experience only 7.2 atmospheric releases (or less) over 3 years, and an average of 0.007 (or less) releases per uncontrolled PRD over 3 years. The commenter concluded that the average PRD from the best performers has zero releases to the atmosphere over 3 years.

Response: The EPA is taking final action on the proposed PRD work practice standards as requested in a number of comment letters.

We disagree with the commenter that stated that work practice standards are not appropriate for PRD releases in the Miscellaneous Organic Chemical Manufacturing source category. At proposal, the EPA provided extensive discussions on why it was appropriate to establish a work practice standard for PRDs that vent to atmosphere, under CAA section 112(h). 84 FR 69206–69209, December 17, 2019. We explained that no MON facility is subject to numeric emission limits for PRDs that vent to the atmosphere. We posited that it was not appropriate to subject PRDs that vent to the atmosphere to numeric emission limits due to technological and economical limitations that make it impracticable to measure emissions from such PRDs. We further explained that CAA section 112(h)(1) allows the EPA to prescribe a work practice standard or other requirement, consistent with the provisions of CAA section 112(d) or (f), in those cases where, in the judgment of the Administrator, it is not feasible to enforce an emission standard. Additionally, we explained that CAA section 112(h)(2)(B) defines the term ''not feasible'' in this context as meaning that ''the application of measurement technology to a particular class of sources is not practicable due to technological and economic limitations.'' We also noted that the basis of the work practice standards promulgated for PRD releases in the Petroleum Refinery Sector RTR (80 FR 75178, December 1, 2015) were our underlying basis for the proposed work practice standards at MON facilities.

With regard to the comments about the PRDs and the smoking flare requirements being exemptions, we note that CAA section 112 standards apply at all times to PRDs and to flares controlling vent gas streams from affected emission sources at MON facilities. For PRDs, facilities must implement a system consisting of at least three redundant prevention measures to minimize releases and must monitor PRDs for any releases, if they were to occur. For flares, facilities still must comply with the underlying combustion efficiency standards (*e.g.,* NHVcz) to ensure the flare is achieving the level of destruction efficiency required by the underlying MACT standards in the MON.

The comments about facilities continuously installing redundant PRDs or closing up PRDs and opening new ones to be able to have as many PRD events as possible without violating the PRD work practice are hypothetical and the EPA has no information to support such a strategy. In addition, MON facilities must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions, and setting up such a strategy would be inconsistent with the General Duty requirements of 40 CFR 63.2450(u). Also, the part 63 General Provisions contain a circumvention provision at 40 CFR 63.4(b) that states in part that ''no owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that

would otherwise constitute noncompliance with a relevant standard.'' Thus, a source that took such hypothetical actions as the commenter suggests would be open to an enforcement action for violating the circumvention provision.

The commenter opposed the PRD work practice and provided additional information about PRD releases from Petroleum Refineries. Much of what was provided by the commenter is irrelevant to the final PRD work practice or is insufficient for the Agency to use to update the work practice standards we are finalizing for PRDs at MON facilities. The EPA notes that the PRDs at Petroleum Refineries are already subject to the work practice standards we are finalizing in this action. In setting the refineries work practice, the EPA conducted a Monte Carlo analysis spanning 20 years. Given that the Agency lacks specific PRD release information and smoking flare information for MON sources, we stated in our technology review memorandum at proposal that we would consider information from other source categories like Petroleum Refineries and Ethylene Production facilities when determining what is achievable for the best performing sources in the Miscellaneous Organic Chemical Manufacturing source category and we made reasonable estimates where needed for estimated cost impacts of implementing the work practice standards we are finalizing for these sources. If anything, the refinery compliance report data provided by the commenter show that the work practice standards we finalized for Petroleum Refineries are quite effective at minimizing PRD releases to the atmosphere and should translate to being effective at minimizing emissions from PRD releases at MON facilities as well. As the commenter stated, among the 998 uncontrolled PRDs reported in the compliance reports that were reviewed from calendar year 2019, there was only one three-minute release to the atmosphere.

Comment: One commenter disagreed with requiring a root cause analysis and corrective action in every situation in which a PRD releases to the atmosphere. The commenter noted that under the Chemical Accident Prevention Program, an incident investigation with root cause analysis is required only when the release was a catastrophic release or could reasonably have resulted in a catastrophic release. The commenter added that the EPA has not established sufficient evidence to indicate that a root cause analysis is being performed by the best performing sources in the MON category routinely for all PRD releases regardless of whether they meet the definition of ''catastrophic release.''

Response: As previously mentioned in this section of this preamble, the work practice standard we are finalizing provides a comprehensive program to manage entire populations of PRDs, includes prevention measures, continuous monitoring, root cause analysis, and corrective actions, and addresses the potential for violations for multiple releases over a 3-year period. Implementing measures such as requiring root cause analysis and corrective action analysis will ensure that the work practice standards are effective and that the best PRD release management practices are followed so that the same events do not recur in the future. The commenter also does not provide any data to support their assertion that the best performers do not conduct a root cause/corrective analysis after a PRD release occurs. We followed the requirements of section 112 of the CAA, including CAA section 112(h), in establishing what work practice constituted the MACT standard for PRDs.

c. Degassing Storage Tanks

Comment: Several commenters requested that the EPA add a standard for minimizing emissions arising from degassing storage tanks that are complying with the control requirements in Table 4 to 40 CFR part 63, subpart FFFF. A commenter explained this request is due to their current interpretation of the proposed rule, wherein 40 CFR 63.6(e)(1) and 40 CFR 63.2450(a)(1) no longer applies, and thus facilities may be required to vent to control devices at all times, even during degassing events. A commenter stated that the current rule requires facilities to address minimization of emissions from shutdown, which includes degassing, in the SSM plan, and that facilities have historically considered degassing emissions from shutdown of storage tanks to be covered by their SSM plans per 40 CFR 63.6(e)(1) and 40 CFR 63.2450(a)(1) and relied on the language in 40 CFR 63.6(e)(1) and 40 CFR 63.2450(a)(1) that back-up control devices are not required. The commenter requested the EPA subcategorize storage vessel degassing emissions as maintenance vents based on class, just as the EPA proposed for process vents. The commenter contended that the Texas permit conditions presented in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Ethylene Production Source Category,* available in the docket for this rulemaking, apply equally to both maintenance vents and degassing of storage tanks and stated these permit conditions reflect what the best performers have implemented for storage tank degassing (for both fixed and floating roofs) for both new and existing sources. According to the commenters, it is not feasible to control all the emissions from the entire storage tank emptying and degassing event, and at some point the storage tank must be opened and any remaining vapors vented to the atmosphere. The commenter further stated that this venting of vapors is similar to the EPA description for maintenance vents in the preamble to the proposed rule.

Another commenter recommended a work practice standard that would require emptying the storage vessel as much as practical allows; and if the storage vessel is required to be controlled in Table 4 to 40 CFR part 63, subpart FFFF, then it would be required to be degassed to a control device, fuel gas system, or process prior to opening to the atmosphere. The commenter also recommended that if the storage vessel is not required to be controlled in Table 4 to 40 CFR part 63, subpart FFFF, then it could be vented to atmosphere after removing as much liquid as practical.

Response: We agree with the commenters that complying with the storage tank requirements in Table 4 to 40 CFR part 63, subpart FFFF, is not appropriate during storage tank degassing events and a separate standard for storage tank degassing is necessary, due to the nature of the activity. With the removal of SSM requirements in this final rule, a standard specific to storage tank degassing does not exist when storage tanks are using control devices to comply with the requirements in Table 4 to 40 CFR part 63, subpart FFFF. We also agree with the commenters that storage tank degassing is similar to maintenance vents (*e.g.,* equipment openings) and that there must be a point in time when the storage tank can be opened and any emissions vented to the atmosphere. In response to this comment, we reviewed available data to determine how the best performers are controlling storage tank degassing emissions.

We are aware of three regulations regarding storage tank degassing, two in the state of Texas and the third for the SCAQMD in California. Texas has degassing provisions in the Texas Administrative Code (TAC) [23] and

[23] See 30 TAC Chapter 115, Subchapter F, Division 3, available at *https://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=30&pt=1&ch=115&sch=F&div=3&rl=Y.*

through permit conditions (as noted by the commenter),[24] while Rule 1149 contains the SCAQMD degassing provisions.[25] The TAC requirements are the least stringent and require control of degassing emissions until the vapor space concentration is less than 35,000 ppmv as methane or 50 percent of the lower explosive limit (LEL). The Texas permit conditions require control of degassing emissions until the vapor space concentration is less than 10 percent of the LEL or until the VOC concentration is less than 10,000 ppmv, and SCAQMD Rule 1149 requires control of degassing emissions until the vapor space concentration is less than 5,000 ppmv as methane. The Texas permit conditions requiring compliance with 10 percent of the LEL and SCAQMD Rule 1149 control requirements are considered equivalent because 5,000 ppmv as methane equals 10 percent of the LEL for methane.

MON facilities located in Texas are subject to the permit conditions, but no MON facilities are subject to the SCAQMD rule. Of the 201 currently operating MON facilities, 39 are in Texas. Therefore, the Texas permit conditions relying on storage tank degassing until 10 percent of the LEL is achieved reflect what the best performers have implemented for storage tank degassing, and we considered this information as the MACT floor for both new and existing sources. Notably, this also aligns with the commenter's assessment.

We reviewed Texas permit condition 6 (applicable to floating roof storage tanks) and permit condition 7 (applicable to fixed roof storage tanks) for key information that could be implemented to form the basis of a standard for storage tank degassing. The Texas permit conditions require control of degassing emissions for floating roof and fixed roof storage tanks until the vapor space concentration is less than 10 percent of the LEL. The permit conditions also specify that facilities can also degas a storage tank until they meet a VOC concentration of 10,000 ppmv, but we do not consider 10,000 ppmv to be equivalent to or as stringent as the compliance option to meet 10 percent of the LEL and are not including this as a compliance option. We also do not expect the best performers would be using this concentration for compliance, which is supported by the commenters recommending the requirements mimic the maintenance vent requirements and because the Texas permit conditions allow facilities to calibrate their LEL monitor using methane. Storage tanks may be vented to the atmosphere once the storage tank degassing concentration threshold is met (*i.e.,* less than 10 percent of the LEL) and all standing liquid has been removed from the tank to the extent practicable. These requirements are considered MACT for both new and existing sources, and we are finalizing these requirements at 40 CFR 63.2470(f).

We calculated the impacts due to controlling storage tank degassing emissions by evaluating the population of storage tanks that are subject to control under Table 4 to 40 CFR part 63, subpart FFFF, and not located in Texas. Storage tanks in the Miscellaneous Organic Chemical Manufacturing source category in Texas would already be subject to the degassing requirements, and there would not be additional costs or emissions reductions for these facilities. We estimated there are an average of 9 storage tanks per facility, based on a 2003 memorandum on MON storage tanks, and applied that to the 162 MON facilities that are not located in Texas, resulting in 1,458 storage tanks newly applicable to tank degassing requirements. Based on a review of CAA section 114 survey responses for ethylene production facilities, most storage tanks are degassed an average of once every 14 years. Using this average and the population of storage tanks that are not in Texas, we estimated 104 storage tank degassing events would be newly subject to control each year. Controlling storage tank degassing would reduce HAP emissions by 86 tons per year, with a total annual cost of approximately $489,000. See the technical memorandum, *Storage Tank Degassing Cost and Emissions Impacts for the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which is available in the docket for this rulemaking, for details on the assumptions and methodologies used in this analysis.

We also considered options beyond-the-floor, but we did not identify and are not aware of storage tank degassing control provisions more stringent than those discussed above and being finalized in this rule; therefore, no beyond-the-floor option was evaluated.

The remaining comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

4. What is the rationale for our final approach and final decisions for the revisions pursuant to CAA section 112(d)(2) and (3)?

We evaluated all of the comments on the EPA's proposed amendments to revisions for flares used as APCDs, clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, maintenance activities, certain gaseous streams routed to a fuel gas system, and requirements for storage tank degassing activities. For the reasons explained in section IV.A of the proposal preamble (84 FR 69182, December 17, 2019), we find that the flare amendments are needed to ensure that flares used as APCDs achieve the required level of MACT control and meet 98-percent destruction efficiency at all times as well as to ensure that CAA section 112 standards apply at all times. Similarly, the clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, maintenance activities, certain gaseous streams routed to a fuel gas system, and standards associated with storage tank emptying and degassing events are needed to be consistent with *Sierra Club* v. *EPA, 551 F.3d* 1019 (D.C. Cir. 2008) to ensure that CAA section 112 standards apply at all times. More information and rationale concerning all the amendments we are finalizing pursuant to CAA sections 112(d)(2) and (3) is in the preamble to the proposed rule (84 FR 69182, December 17, 2019), in section IV.C.3 of this preamble, and in the comments and our specific responses to the comments in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* which is available in the docket for this rulemaking. Therefore, we are finalizing the proposed provisions for flares (except that we are not finalizing the work practice standard for velocity exceedances for flares operating above their smokeless capacity), finalizing the proposed clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, maintenance activities, and certain gaseous streams routed to a fuel gas system, and finalizing standards for storage tank emptying and degassing events.

[24] See *https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mss/chem-mssdraftconditions.pdf.*

[25] See *http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1149.pdf.*

D. Amendments Addressing Emissions During Periods of SSM

1. What amendments did we propose to address emissions during periods of SSM?

We proposed amendments to the MON standards to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. In a few instances, we are finalizing alternative standards for certain emission points (*i.e.,* emergency flaring, PRDs, maintenance activities, and tank degassing) to minimize emissions during periods of SSM to ensure a continuous CAA section 112 standard applies ''at all times,'' (see section IV.C of this preamble); however for the majority of emission points in the Miscellaneous Organic Chemical Manufacturing source category, we proposed eliminating the SSM exemptions and to have the MACT standards apply at all times. More information concerning the elimination of SSM provisions is in section IV.E.1 of the proposal preamble (84 FR 69182, December 17, 2019).

2. How did the SSM provisions change since proposal?

We are finalizing the SSM provisions as proposed (84 FR 69182, December 17, 2019) with only minor changes to sufficiently address the SSM exemption provisions from subparts referenced by the MON standards, and the removal of applicability of 40 CFR 63.6(f)(1) and (h)(1) that are directly impacted by the 2008 Court decision.

3. What key comments did we receive on the SSM revisions and what are our responses?

While we are finalizing some alternative standards in this final rule for certain emission points during periods of SSM to ensure a continuous CAA section 112 standard applies ''at all times,'' (see section IV.C of this preamble), we also proposed eliminating the SSM exemptions for the majority of emission points in the Miscellaneous Organic Chemical Manufacturing source category. This section provides comment summaries and responses for the key comments received regarding our proposed revisions. Other comment summaries and the EPA's responses for additional issues raised regarding these activities as well as issues raised regarding our proposed revisions can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

Comment: One commenter stated that the proposed malfunction standards for PRDs break with prior Agency policy regarding malfunctions and the use of case-by-case enforcement discretion to address malfunctions. The commenter stated that the agency has repeatedly explained why case-by-case evaluation of such issues is the only workable approach and has repeatedly finalized prohibitions on uncontrolled releases from PRDs that vent directly to the atmosphere, fully aware that allowing such releases without an emission limit is a malfunction exemption prohibited both by the CAA and the Court's decision in *Sierra Club.* The commenter objected to this change and contended that the EPA did not clearly explain this break with prior precedent. The commenter noted that the EPA finalized similar provisions prohibiting PRD releases in MACT standards for Group IV Polymers and Resins, Pesticide Active Ingredient Manufacturing, and Polyether Polyols Production. The commenter further stated that the Court recently upheld this type of prohibition in *Mexichem Specialty Resins, Inc. v EPA,* 787 F.3d 544, 560–61 (D.C. Cir. 2015) and urged the EPA to finalize the standards for PRD as proposed. The commenter noted that in light of the EPA's prior policy, prohibiting uncontrolled PRD releases is lawful and consistent with the CAA. The commenter stated that the EPA has neither provided a reasoned explanation for the exemptions nor acknowledged or explained the break in its prior policy against malfunction exemptions.

Furthermore, the commenter observed that uncontrolled PRD releases are preventable and avoidable and that they need not occur if a facility avoids over-pressure in the system. The commenter referred to the proposal preamble, noting that such ''pressure build-ups are typically a sign of a malfunction of the underlying equipment,'' and PRDs ''are equipment installed specifically to release during malfunctions.'' Therefore, the commenter argued that the EPA cannot rely on any argument that equipment can fail, that PRDs are necessary to address over-pressure and avoid a larger safety incident, and that the EPA has not relied on or demonstrated with any evidence that it is a valid concern. The commenter stated that even if it may be considered by the EPA in an administrative enforcement context or by the courts in an enforcement case, the EPA cannot authorize, up front, a whole set of problematic releases.

The commenter argued that it would create a far stronger incentive to reduce smoking flares and uncontrolled PRD releases if the EPA simply recognized that such uncontrolled releases are prohibited and the flare requirements must apply at all times; treating one or two exceedances as a non-violation dramatically reduces the incentive for facilities to comply with the work practice standards.

The commenter also noted that the civil penalties available for such violations could provide some remedy for the air pollution a facility released, even if it were completely out of the facility's control. For example, the commenter stated that penalties won by a citizen suit may either go into a special fund ''to finance air compliance and enforcement activities'' that may help to address some part of the pollution or ''be used in beneficial mitigation projects which . . . enhance the public health or the environment.''

Other commenters agreed that the EPA has the authority and obligation to adopt work practice standards under the *Sierra Club* SSM decision. The commenters reiterated the *Sierra Club* decision and said the EPA must ensure that some ''emission standard'' applies at all times—except that the standard that applies during normal operation need not be the same standard for SSM periods. The commenters said the requirement for ''continuous'' standards means only that a facility may not install control equipment and then turn it off when atmospheric conditions are good; it does not mean that work practice standards must physically restrict emissions from all equipment at all times. The commenters said that the EPA has consistently imposed as ''MACT'' standards a variety of work practice obligations that do not prohibit or limit emissions to a specified level at all times but rather are designed to limit overall emissions from various processes over the course of a year. The commenters said the EPA's own LDAR programs illustrate this distinction. The commenters contended that no court has suggested that periods of ''unlimited emissions'' [*e.g.,* 40 CFR 63.119(b)(1) (internal floating roof allowed not to contact with stored material during filling/emptying); 40 CFR 63.119(b)(6) (covers on tank openings may be opened when needed for access to contents); 40 CFR 63.135(c)(2) (allowing openings on containers as necessary to prevent physical damage)] render these requirements insufficient under CAA section 112. Rather, the commenters said that work practice standards associated with these requirements—*e.g.,* maintaining openings in a closed

position except as necessary for access; conducting filling/emptying as rapidly as possible—are considered to be acceptable mechanisms to minimize overall emissions from these types of equipment, even when they do not limit emissions at all during a few brief periods that are necessary for operational or safety reasons.

Response: We disagree with the comment that the work practice standards that we are finalizing for PRD releases and for emergency releases from flares are malfunction exemptions and we disagree with the assertion that the standards do not apply at all times. We also disagree that PRDs are simply bypasses for emissions that are subject to emission limits and controls or that they allow for uncontrolled emissions without violation or penalty. We also disagree that the standards being finalized allow facilities to ignore the flare tip velocity and no-visible emissions flare requirements such that a flare can smoke without repercussions and without limits repeatedly.

As discussed in section IV.C of this preamble, the requirements and work practice standards require a number of prevention measures that operators must undertake to prevent PRD release and flare smoking events, including the installation and operation of continuous monitoring device(s) to identify when a PRD release has occurred. The work practice combustion efficiency standards (specifically limits on the NHVcz) and requirements to have a continuously lit pilot flame or flare flame apply at all times, including during periods of emergency flaring. We also note that a flare is not a specific emission source within the MON standards; rather, a flare is an APCD that has always been a type of emission control technology that miscellaneous organic chemical manufacturing facilities could utilize to comply with the underlying MACT standards. Flares are associated with a wide variety of process equipment, and the emissions routed to a flare during a malfunction can vary widely based on the cause of the malfunction and the type of associated equipment. As such, there can be certain instances when flares may be operated above their smokeless capacity to control emissions from certain events such as malfunction events, and we are finalizing work practice standards for visible emissions events when flares are operated above their smokeless capacity based on the best performing flares in the source category.

Further, we are limiting the number of releases that would result in a deviation from the work practice standards. Regarding the comment that civil penalties may provide remedy for these releases, we note that the work practice standards provide for sufficient specificity to identify when a release is a deviation from the work practice standard, as well as a root cause analysis to help guide a decisionmaker in deciding whether to pursue an enforcement action because they believe a violation has occurred and for a court or other arbiter to rule on any claim.

4. What is the rationale for our final approach and final decisions to address emissions during periods of SSM?

We evaluated all of the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule (84 FR 69182, December 17, 2019), we determined that these amendments, which remove and revise provisions related to SSM, are necessary to be consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule and in the comments and our specific responses to the comments in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking. Therefore, we are finalizing our approach for the SSM provisions as proposed.

E. Other Amendments to the MACT Standards

1. What other amendments did we propose for the Miscellaneous Organic Chemical Manufacturing source category?

We proposed adding monitoring requirements at 40 CFR 63.2450(e)(7) for adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite because the MON does not currently include specific monitoring requirements for this type of APCD. We proposed that owners or operators of this type of APCD use dual adsorbent beds in series and conduct daily monitoring. In order to monitor performance deterioration, we proposed daily measurements of HAP or TOC using a portable analyzer or chromatographic analysis for non-regenerative adsorbers (to be taken daily on the outlet of the first adsorber bed in series using a sample port). Furthermore, in order to relieve some monitoring burden, we proposed an option to reduce the frequency of monitoring with the portable analyzer from daily to weekly or monthly.

We also proposed that owners or operators submit electronic copies of required flare management plans (at 40 CFR 63.2450(e)(5)(iv)), compliance reports (at 40 CFR 63.2520(e)), performance test reports (at 40 CFR 63.2520(f)), and performance evaluation reports (at 40 CFR 63.2520(g)) through the EPA's CDX using CEDRI, and we proposed two narrow circumstances in which owners or operators may seek extensions to the deadline if they are prevented from reporting by conditions outside of their control within five business days of the reporting deadline. We proposed at 40 CFR 63.2520(h) that an extension may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports. We also proposed at 40 CFR 63.2520(i) that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

Finally, we proposed revisions to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 11 of the proposal preamble. See 84 FR 69228, December 17, 2019.

2. How did the other amendments for the Miscellaneous Organic Chemical Manufacturing source category change since proposal?

We are finalizing the other amendments discussed in section IV.E.1 of this preamble as proposed, except that, in the final rule, we are correcting an error to clarify that compliance reports must be submitted electronically (*i.e.,* through the EPA's CDX using the appropriate electronic report template for this subpart) beginning three years after date of publication of final rule in the **Federal Register** or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later. Also, as discussed further in the response to comment document for this rulemaking, we are adding back in provisions originating from 40 CFR 63.104(a)(1), (2), (5), and (6) that were inadvertently removed in the proposed rule. Finally, we are including several additional minor clarifying edits in the final rule based on comments received during the public comment period.

We are revising the proposed monitoring requirements at 40 CFR 63.2450(e)(7) for adsorbers that cannot be regenerated and regenerative

adsorbers that are regenerated offsite to reduce the frequency of monitoring with the portable analyzer based upon the design life of the bed. Instead of daily monitoring, the final rule will allow owners or operators to monitor monthly if the bed has at least two months of the bed design life remaining and weekly if the bed has between two months and two weeks of bed design life remaining. Daily monitoring is required once the bed has less than two weeks of bed design life remaining. Under the final rule, owners or operators will also be required to conduct monitoring no later than 3 days after a bed is put into service as the first bed to confirm that it is functioning properly.

3. What key comments did we receive on the other amendments for the Miscellaneous Organic Chemical Manufacturing source category and what are our responses?

This section provides comment and responses for the key comments received regarding our proposed revisions to the monitoring requirements for adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite. With the exception of these comments related to the proposed monitoring requirements for adsorbers, we did not receive many substantive comments on the other amendments in the MON RTR proposal. The comments we received regarding other amendments generally include issues related to electronic reporting, removal of certain exemptions for heat exchange systems, overlap provisions for equipment leaks, and revisions that we proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. The comments and our specific responses to these issues can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

Comment: Several commenters disagreed with the proposed requirement at 40 CFR 63.2450(e)(7) for adsorbers that cannot be regenerated or adsorbers that are regenerated offsite.

Commenters contended that requiring the addition of a second adsorber bed in series is not a monitoring function but is a change in allowed controls and, therefore, is an equipment standard that must be evaluated under CAA section 112(d)(6).

Commenters disagreed with the EPA's justification for requiring a dual bed system as "use of a single bed does not ensure continuous compliance unless the bed is replaced significantly before breakthrough," (84 FR 69227) arguing that (1) This same argument also applies to dual bed systems, and (2) the EPA makes no claim that use of a single bed is not achieving continuous compliance frequently enough to justify disallowing single bed systems. Commenters stated that facilities typically follow conservative single-bed change procedures (*e.g.,* 20 to 30 percent of bed saturation) and that single beds are typically oversized and used where only a small percentage of their capacity is expected to be needed. Commenters asserted that conservative single bed change decisions reduce the monitoring required in such cases under applicable rules or permits, or a very conservative breakthrough point is set by rule or permit. Commenter noted that if owners or operators replace single beds prematurely and the cost of the replacement bed is small compared to the increased compliance assurance, then early replacement should be the preferred approach for assuring compliance, because it avoids all of the costs and emissions associated with having dual beds and results in a larger margin of compliance assurance than for a dual bed installation.

Commenter claimed that adding piping components required for a dual bed system will have negative consequences: (1) Adding continuous fugitive emissions from the additional valves and connectors, and (2) creating, in some cases, operating concerns or requiring addition of compression due to the added back pressure from the second bed.

Commenters contended that the proposed equipment standard is not cost effective and would not achieve any reduction in emissions. Commenters disagreed with the EPA's position that there would be no cost for a second bed in a dual bed system and argued that the EPA did not consider the cost of design and engineering, additional structural elements and foundations, reconfiguring the piping, adding valves to isolate each bed, and relocating existing single beds where space is not available for a second bed.

Commenters recommended that the EPA not require dual adsorber beds and monitoring for temporary adsorbers (*e.g.,* systems used for less than 6 months) and small adsorbers that infrequently need replacement. Commenters stated that the only requirement for such systems should be a record demonstrating the bed life is appropriate for the maximum expected emissions loading. Commenter recommended that small adsorbers that are operated solely as back-up control devices should also be exempted on the basis of the requirements not being cost effective, and on the basis that they are operated no more than some percentage of the minimum potential saturation time.

Commenters asserted that 3 years would be needed to comply with this proposed requirement because the retrofit of an existing single bed system will have to be engineered, appropriated, and then designed and constructed.

Commenters requested that, if the EPA promulgates the adsorber monitoring requirements, the EPA should also remove the requirement at 40 CFR 63.2450(e)(7)(iii)(B) to conduct daily monitoring for the first three adsorber bed change outs because this amount of testing is excessive and represents an unnecessary cost. Commenters stated that, to ensure compliance, some facilities routinely replace adsorbent well in advance of breakthrough. For example, on a non-continuous/intermittent backup system, commenters stated that some facilities replace adsorbent on a yearly basis, regardless of whether the bed is approaching saturation, and bed life would never be established as proposed. In other cases, commenters stated that bed life may be several months, and daily monitoring would be unnecessarily expensive. Commenters recommended that the EPA adopt a reduced monitoring frequency similar to the Benzene Waste Operations NESHAP at 40 CFR 61.354(d) where facilities are allowed to monitor either daily or at intervals no greater than 20 percent of the design carbon replacement interval.

Commenters also requested the use of colorimetric tubes to monitor for breakthrough in place of instrument monitoring. These tubes are placed in a fitting in the vent at the outlet of the first adsorber bed and are filled with a reagent that changes color when exposed to specific target compounds or to volatile organic compounds, depending on the vapor, which indicates breakthrough.

Finally, commenters requested that the EPA clarify that systems with more than two adsorber beds in series would be allowed and that dual bed (*i.e.,* two bed) systems are not the only ones allowed.

Response: The EPA is revising the proposed monitoring requirements for non-regenerative adsorbers to address some of the commenters concerns, but the final rule still requires the use of a dual bed system in series and monitoring at the outlet of the first bed to detect breakthrough.

The EPA acknowledges that the proposed requirements could have been considered under CAA section 112(d)(6) because of the specification to have two adsorber beds in series, instead of as a proposed change to the monitoring requirements. However, the EPA presented the technical rationale for why a second bed was needed and for why the estimated costs for adding a second bed would be minimal. This rationale would not have been any different if the EPA described the proposed changes under CAA section 112(d)(6) instead of as a monitoring change. These changes were proposed because the current 40 CFR part 63, subpart FFFF, contained no monitoring requirements for non-regenerative adsorbers.

The commenters requested that the EPA establish work practice or operational standards that would allow the continued use of a single bed system (*e.g.,* changing adsorber beds when they had reached some percentage of their designed capacity). While we agree with the comment that a single bed approach can be very effective at controlling HAP from sources subject to the MON, our goal is to ensure that sources are complying with the standards at all times and even a well maintained single bed system is vulnerable to errors that are not possible with the dual bed system we are requiring. The proposed and final monitoring requirements for non-regenerative adsorbers fulfill the EPA's obligation to establish monitoring requirements to ensure continuous compliance with the emission limits (*e.g.,* 98-percent control or a 20 ppm TOC outlet concentration) when owners or operators are using these types of control devices to comply with the standards.

In response to the commenters' concerns about the costs of adding a second adsorber bed, we used the EPA's cost algorithms to estimate the cost of a second carbon adsorber bed for two adsorber scenarios. In the first, scenario, the EPA estimated the cost of a replaceable-canister type adsorber holding 180 lbs of carbon. The total capital investment of the second bed (including installation and auxiliary equipment) is about $5,100, and the total annual cost is about $900. In the second scenario, we estimated the cost of an adsorber that holds 3,000 lbs of carbon and in which the carbon is removed and replaced by fresh carbon when needed. The total capital investment of the second bed (including installation and auxiliary equipment) is about $22,300, and the total annual cost is about $3,000. We assumed no additional labor would be required for operation and maintenance of the second adsorber bed compared to operating and maintaining a single bed adsorber. We documented this analysis for the final rulemaking in the memorandum, *Analysis of Monitoring Costs and Dual Bed Costs for Non-Regenerative Carbon Adsorbers Used in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which is available in the docket for this rulemaking.

In both scenarios, we assumed that the first bed would be replaced when it reached breakthrough (*i.e.,* its equilibrium capacity, which is when the adsorption zone of the bed reaches the bed outlet and the volatile concentration in the exhaust begins to rise) based on monitoring at the outlet of the first bed. At that time, the owner or operator would divert the flow from the first to the second bed, the canisters or carbon would be replaced in the first bed, and it would then be returned to service as the second bed in the series. We did not include the cost of replacing the canisters or the carbon in the annual costs because the amount of carbon used would not increase as a result of using a second bed in series. The EPA still concludes that having two beds in series and performing monitoring at the outlet of the first bed will reduce the amount of adsorber media (*e.g.,* activated carbon) used by facilities because they will not have to replace the adsorber media until it reaches equilibrium capacity. With only a single bed and no monitoring, facilities need to replace the adsorber media more frequently based on the estimated working capacity of the bed (which is a fraction of the equilibrium capacity) so as to maintain compliance and to avoid exceeding outlet concentration limits. The EPA determined at proposal that the use of two beds in series and the use of monitoring will maximize the life of each bed and reduce adsorber media replacement costs. The EPA has not changed that determination based on the public comments submitted or on the analyses completed since proposal.

The EPA is revising the proposed monitoring requirements to reduce the frequency of monitoring. In the final rule, owners or operators will be able to conduct monitoring based on the design life of the adsorber bed. The final monitoring requirements are similar to what the EPA proposed for owners or operators who establish the life of the adsorber bed based on at least three bed replacement cycles. However, in the final rule, the EPA will allow owners or operators to use the design life of the bed and to monitor monthly if the bed has at least two months of the bed design life remaining and weekly if the bed has between two months and two weeks of bed design life remaining. Once the remaining bed design life reaches two weeks, daily monitoring is required. This change from proposal will not lead to an increase in emissions because the final rule will still require the use of beds in series, and any emissions detected when the first bed reaches breakthrough will still be captured by the second bed in the series. After breakthrough on the first bed is detected, the first bed will be removed from service and replaced. The second bed will be moved to the first bed position and the newly replaced bed will become the second bed in series. Therefore, the newest bed will always be operated as a backup to the older bed. Under the final rule, owners or operators will also be required to conduct monitoring no later than 3 days after a bed is put into service as the first bed to confirm that it is functioning properly. This change will substantially reduce the cost of monitoring. For example, the capital cost of portable FID was estimated to be $9,000, and the total annual cost for daily monitoring was estimated to be $13,000, but the total annual cost for monthly and weekly monitoring were estimated to be $2,600 and $3,700, respectively.

We did not estimate the cost effectiveness (*i.e.,* the cost per ton of HAP reduced) of requiring the second adsorber bed and the final monitoring requirements because the second bed is acting as a backup to the first bed to capture any potential breakthrough, and it is difficult to estimate the mass of HAP that will be captured and the excess emissions that will be avoided by the monitoring.

The EPA is not including an exemption from the final rule requirements for adsorbers used for temporary applications or as backup for other control devices. Control devices used to comply with an emission limitation, even on a temporary basis, must still meet the same performance and monitoring requirements as one used on a permanent basis.

In the final rule, the EPA is not allowing the use of colorimetric tubes in place of instrument monitoring at the outlet of the first adsorber bed. The EPA investigated the use of these tubes but could not find any specification or quality assurance standard that could be incorporated by reference to ensure the accuracy of these tubes in detecting breakthrough. Additionally, we could not find information on the material contained within the tubes and whether the material would react with all HAP being controlled by adsorbers in the

Miscellaneous Organic Chemical Manufacturing source category.

Finally, the EPA is clarifying in the final rule, in response to comments, that systems with at least two beds are required, but systems with more than two beds in series are allowed.

4. What is the rationale for our final approach and final decisions for the other amendments for the Miscellaneous Organic Chemical Manufacturing source category?

Based on the comments received for these other amendments, we are generally finalizing all proposed requirements, with the exception of the monitoring requirements for adsorbers that cannot be regenerated or adsorbers that are regenerated offsite. For the reasons described in section IV.E.3 of this preamble, we are revising the proposed monitoring requirements for these adsorbers in the final rule to reduce the monitoring frequency from what we proposed.

In a few instances (*e.g.,* overlap provisions for equipment leaks), we received comments that led to additional minor editorial corrections and technical clarifications being made in the final rule, and our rationale for these corrections and technical clarifications can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Miscellaneous Organic Chemical Manufacturing,* available in the docket for this rulemaking.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

We estimate that, as of November 6, 2018, there were 201 MON facilities. A complete list of known MON facilities is available in Appendix 1 of the document, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0011).

B. What are the air quality impacts?

At the current level of control prior to the amendments being finalized in this action, the EPA estimates that ethylene oxide emissions were approximately 1.1 tpy (actuals) and 3.1 tpy (allowables) from the eight MON facilities with emission process groups (*i.e.,* process vents, storage tanks, equipment leaks) in ethylene oxide service. At the level of control required by the amendments being finalized in this action, which includes amendments to process vents, storage tanks, and equipment in ethylene oxide service (equipment leak Control Option 1), we estimated ethylene oxide emissions reductions of 0.76 tpy (actuals) and 2.7 tpy (allowables) for the source category.

At the level of control prior to the amendments being finalized in this action, we estimated HAP emissions for all MON facilities of approximately 7,420 tpy and VOC emissions of approximately 19,720 tpy, based on emissions from the MON modeling file available for 194 of the 201 MON facilities identified in this rulemaking. Note that seven of the 201 MON facilities did not report HAP emissions to the 2014 NEI for MON processes. Of this total, approximately 2,558 tpy of HAP and 6,730 tpy of VOC are attributed to emission process groups with amendments being finalized in this action. At the level of control required by the amendments being finalized in this action, we estimate HAP emissions reductions between 107 tpy and 130 tpy and VOC emissions reductions between 283 tpy and 532 tpy. As discussed in the proposal preamble (84 FR 69182, December 17, 2019), we estimated HAP emissions using two different methods (*i.e.,* based on the MON emission inventory and based on model plants, respectively), so estimated emission reductions are presented as a range. We also estimate excess emissions reductions from flares that could result from the final monitoring requirements, which we estimate to be 263 tpy HAP and 1,254 tpy VOC. When considering the flare excess emissions, the total emissions reductions as a result of the final amendments are estimated to be between 370 and 393 tpy of HAP and between 1,537 and 1,786 tpy of VOC. These emissions reductions are documented in the following memoranda, which are available in the docket for this rulemaking: *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule, Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule, Analysis of Control Options for Storage Tanks and Process Vents Emitting Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule, Analysis of Control Options for Equipment Leaks at Processes that use Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule, Control Option Impacts for Flares Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* and *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule.*

C. What are the cost impacts?

The total capital investment cost of the final amendments and standards is estimated at approximately $43 million, including approximately $40 million for MON facilities without ethylene oxide controls and $3 million from MON facilities with ethylene oxide controls. We estimate total annual costs of the final amendments, without recovery credits, to be approximately $13 million.

The nationwide costs of the amendments being finalized in this action are presented in Table 5 of this preamble for (1) All MON sources, (2) only MON sources not expected to be affected by the ethylene oxide-specific controls being finalized in this action (*i.e.,* equipment leaks, heat exchange systems, flares, PRDs, maintenance vents, storage tank degassing activities, recordkeeping and reporting), and (3) only MON sources expected to be affected by the ethylene oxide controls being finalized in this action (*i.e.,* storage tanks, process vents, equipment leaks). As described in this preamble, for ethylene oxide sources, we are finalizing amendments for storage tanks and process vents in ethylene oxide service. For equipment in ethylene oxide service, of the two co-proposed options we are finalizing equipment leak co-proposed Control Option 1, which requires that the same equipment leak standards (*i.e.,* lower the leak definition for batch pumps to 1,000 ppm and require connector monitoring at a leak definition of 500 ppm) will apply to all facilities in ethylene oxide service. These costs are presented in Table 5 of this preamble. There are 201 facilities affected by the amendments, and the number of facilities affected by each of the specific amendments is indicated in Table 5 below. The facility list was developed using methods described in section II.C of the proposal preamble (84 FR 69182, December 17, 2019). A complete list of known MON facilities is available in Appendix 1 of the document, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is

available in the docket for this rulemaking.

TABLE 5—TOTAL CAPITAL INVESTMENT AND TOTAL ANNUAL COSTS

[2016$]

	Number of facilities w/costs associated with new requirements	Total capital investment	Total annual costs w/o recovery credits	Total annual costs w/recovery credits
All MON Sources—Total	.....	42,700,000	12,700,000	12,300,000
MON Sources w/o Ethylene Oxide Controls—Total	.....	39,700,000	11,400,000	11,100,000
Flares [1]	21	17,200,000	4,090,000	4,090,000
Equipment Leaks [2]	193	829,000	150,000	81,800
PRDs [3]	201	18,700,000	4,770,000	4,770,000
Maintenance Vents [3]	201	.....	2,340	2,340
Heat Exchange Systems [4]	201	1,480,000	261,000	(14,300)
Degassing Tanks [5]	162	.....	489,000	489,000
Recordkeeping and Reporting	201	1,490,000	1,650,000	1,650,000
MON Sources w/Ethylene Oxide Controls—Total	.....	2,990,000	1,250,000	1,250,000
Equipment Leaks [6]	7	71,100	47,500	44,600
Process Vents [7]	3	2,740,000	943,000	943,000
Storage Tanks [7]	3	178,000	258,000	258,000

Costs are rounded to three significant figures.

[1] The flare costs include purchasing analyzers, monitors, natural gas and steam, developing a flare management plan, and performing root cause analysis and corrective action, and are discussed in the memorandum, *Control Option Impacts for Flares Located in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0006).

[2] Equipment leak costs include LDAR at a leak definition of 1,000 ppmv for light liquid pumps at batch processes, and are discussed in the memoranda, *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the Miscellaneous Organic Chemical Manufacturing Source Category* (see Docket Item No. EPA–HQ–OAR–2018–0746–0003) and *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule* which are available in the docket for this rulemaking.

[3] PRD costs were developed to comply with the work practice standard being finalized in this action and include implementation of three prevention measures, performing root cause analysis and corrective action, and purchasing PRD monitors. Maintenance costs were estimated to document equipment opening procedures and circumstances under which the alternative maintenance vent limit is used. Costs are discussed in the memorandum, *Review of Regulatory Alternatives for Certain Vent Streams in the Miscellaneous Organic Chemical Manufacturing Source Category,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0010).

[4] Heat exchange systems costs include the use of the Modified El Paso Method to monitor for leaks, and are discussed in the memoranda, *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems Located in the Miscellaneous Organic Chemical Manufacturing Source Category* (see Docket Item No. EPA–HQ–OAR–2018–0746–0007) and *Clean Air Act Section 112(d)(6) Technology Review for Heat Exchange Systems in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which are available in the docket for this rulemaking.

[5] Costs for degassing storage tanks are discussed in the memorandum, *Storage Tank Degassing Cost and Emissions Impacts for the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which is available in the docket for this rulemaking.

[6] Equipment leak costs for equipment in ethylene oxide service include costs for equipment leak co-proposed Control Option 1. Control Option 1 includes LDAR at a leak definition of 1,000 ppmv for light liquid pumps at batch processes with monthly monitoring and connector monitoring at a leak definition of 500 ppmv with annual monitoring. Costs are discussed in the memoranda, *Analysis of Control Options for Equipment Leaks at Processes that use Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category* (see Docket Item No. EPA–HQ–OAR–2018–0746–0004) and *Analysis of Control Options for Equipment Leaks at Processes that use Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which are available in the docket for this rulemaking.

[7] Costs for process vents and storage tanks in ethylene oxide service include the requirement to control all storage tanks in ethylene oxide service, the installation of a control device that achieves 99.9-percent ethylene oxide emissions reductions, and initial and periodic performance testing of the control device, and are discussed in the memoranda, *Analysis of Control Options for Storage Tanks and Process Vents Emitting Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category* (see Docket Item No. EPA–HQ–OAR–2018–0746–0005) and *Analysis of Control Options for Storage Tanks and Process Vents Emitting Ethylene Oxide Located in the Miscellaneous Organic Chemical Manufacturing Source Category For the Final Rule,* which are available in the docket for this rulemaking.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of the compliance costs outlined in section V.C of this preamble. The EPA performed a screening analysis for impacts on all affected facilities by comparing compliance costs to revenues at the ultimate parent company level. This is known as the cost-to-revenue or cost-to-sales test, or the ''sales test.'' The ''sales test'' is an impact methodology the EPA employs in analyzing entity impacts as opposed to a ''profits test,'' in which annualized compliance costs are calculated as a share of profits. The use of a sales test for estimating small business impacts for a rulemaking is consistent with guidance offered by the EPA on compliance with the Regulatory Flexibility Act (RFA) and is consistent with guidance published by the U.S. Small Business Administration's Office of Advocacy that suggests that cost as a percentage of total revenues is a metric for evaluating cost increases on small entities in relation to increases on large entities.

There are 201 MON facilities, owned by 99 parent companies, affected by the final amendments. Of the parent companies, 17 companies, or 17

percent, are small entities. We identified the North American Industry Classification System (NAICS) code for all parent companies and applied the U.S. Small Business Administration's table of size standards to determine which of the companies were small entities. Also, we calculated the cost-to-sales ratios for all the affected entities to determine (1) The magnitude of the costs of the amendments being finalized in this action and (2) whether there would be a significant impact on small entities. To be conservative, we used facility-specific costs without recovery credits. For all firms, the average cost-to-sales ratio is approximately 0.06 percent; the median cost-to-sales ratio is less than 0.01 percent; and the maximum cost-to-sales ratio is approximately 0.97 percent. For large firms, the average cost-to-sales ratio is approximately 0.01 percent; the median cost-to-sales ratio is less than 0.01 percent; and the maximum cost-to-sales ratio is approximately 0.52 percent. For small firms, the average cost-to-sales ratio is approximately 0.30 percent, the median cost-to-sales ratio is 0.11 percent, and the maximum cost-to-sales ratio is 0.97 percent. The facility-specific costs for the 17 small firms ranged from $35,083 to $42,746 annually (2016$). The costs of the final action are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

More information and details of this analysis is provided in the memorandum, *Economic Impact and Small Business Screening Assessments for Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing,* which is available in the docket for this rulemaking.

E. What are the benefits?

The EPA did not monetize the benefits from the estimated emission reductions of HAP associated with this final action. The EPA currently does not have sufficient methods to monetize benefits associated with HAP, HAP reductions, and risk reductions for this rulemaking. However, we estimate that the final rule amendments would reduce HAP emissions by 107 tons per year and thus lower risk of adverse health effects in communities near facilities subject to the MON.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Miscellaneous Organic Chemical Manufacturing source category across different demographic groups within the populations living near facilities.

Our analysis of the demographics of the population with estimated risks greater than 1-in-1 million indicates potential disparities in risks between demographic groups, including the African American, Hispanic or Latino, Over 25 Without a High School Diploma, and Below the Poverty Level groups. In addition, the population living within 50 km of the MON facilities has a higher percentage of minority, lower income, and lower education people when compared to the nationwide percentages of those groups. However, acknowledging these potential disparities, the risks for the source category were determined to be acceptable after implementation of the controls required by the final amendments, and emissions reductions from the final amendments will benefit these groups the most.

The documentation for this decision is contained in section IV.A of this preamble, and the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Organic Chemical Manufacturing Source Category Operations* dated November 27, 2018, which is available in the docket for this rulemaking.

As noted in section IV, the EPA reanalyzed risks using emission inventory updates from a CAA section 114 request and additional information received during the public comment period. Based on the revised risk results, the EPA also updated the demographic analysis. The revised demographic analysis indicated slight changes (ranging from 1–3%) in the population with estimated risks greater than 1-in-1 million for four demographic groups (African American, Hispanic or Latino, Below the Poverty Level, and Linguistic Isolation). However, the overall conclusions remain the same. The updated demographic analysis, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Organic Chemical Manufacturing Source Category Operations* dated May 21, 2020, is available in the docket for this rulemaking.

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the risk report, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0013).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to Office of Management and Budget (OMB) for review because it raises novel legal or policy issues. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is found in the memorandum *Economic Impact and Small Business Screening Assessments for Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing,* in the docket for this rulemaking.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 regulatory action. Details on the estimated costs of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action discussed in section V of this preamble.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1969.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that change the reporting and recordkeeping requirements for several emission sources at MON facilities (*e.g.,* flares, heat exchangers, PRDs, storage tanks, and process vents). Specifically, we are finalizing, as proposed, a requirement that owners or operators of MON facilities submit electronic copies of notification of compliance status reports (being finalized at 40 CFR 63.2520(d)), compliance reports (being finalized at 40 CFR 63.2520(e)), performance test reports (being finalized at 40 CFR 63.2520(f)), and performance evaluation reports (being finalized at 40 CFR 63.2520(g)) through the EPA's CDX using the CEDRI. We are also requiring recordkeeping of each report and other records for storage tank degassing, flares, PRDs, process vents, storage tanks, heat exchangers, bypass lines, and maintenance vents (being finalized at 40 CFR 63.2470(f), and 40 CFR 63.2525(m) through (r)). The final amendments also remove the malfunction exemption and impose other revisions that affect reporting and recordkeeping.

This information will be collected to assure compliance with 40 CFR part 63, subpart FFFF. The total estimated burden and cost for reporting and recordkeeping due to these amendments are presented below and are not intended to be cumulative estimates that include the burden associated with the requirements of the existing 40 CFR part 63, subpart FFFF.

Respondents/affected entities: Owners or operators of MON facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart FFFF).

Estimated number of respondents: 201 (total).

Frequency of response: Semiannual or annual. Responses include notification of compliance status reports and semiannual compliance reports.

Total estimated burden: 12,219 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,642,730 (per year), includes $2,405,799 annualized capital and operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses according to the Small Business Administration's small business size standards. The Agency has determined that 17 of the 99 affected entities are small entities that may experience an impact of an average cost-to-sales ratio of approximately 0.30 percent. Details of this analysis are presented in the memorandum, *Economic Impact and Small Business Screening Assessments for Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing,* which is available in the docket for this rulemaking.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the MON facilities that have been identified as being affected by this final action are owned or operated by tribal governments or located within tribal lands within a 10 mile radius. Thus, Executive Order 13175 does not apply to this action. We conducted an impact analysis using the latitude and longitude coordinates from the risk modeling input file to identify tribal lands within a 10 and 50 mile radius of MON facilities to determine potential air quality impacts on tribes. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, although there were no tribal lands located within a 10 mile radius of MON facilities, the EPA offered consultation with 14 tribes that were identified within a 50 mile radius of an affected facility, however, no tribal officials requested consultation. Additional details regarding the consultation letter and distribution list can be found in the memorandum, *MON RTR Consultation Letter,* which is available in the docket for this rulemaking. The EPA also participated on a phone call with the National Tribal Air Association on December 12, 2019, and presented an overview of the rulemaking.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in section IV.A of this preamble and further documented in the risk report, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The overall energy consumption and

economic impact of these final amendments is expected to be minimal for MON facilities and their parent companies (some of which are engaged in the energy sector) and, therefore, we do not expect any adverse effects on the supply, distribution, or use of energy as a result.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. As discussed in the proposal preamble (84 FR 69182, December 17, 2019), the EPA conducted searches for the MACT standards through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 15, 18, 21, 22, 25, 25A, 25D, 26, 26A, and 29 of 40 CFR part 60, appendix A, 301, 305, 316, and 320 of 40 CFR part 63, 624 and 625 of 40 CFR part 136, appendix A, 1624, 1625, 1666 and 1671 of 40 CFR part 136, appendix A, 5030B (SW–846), 5031, 8260, 8260B (SW–846), 8260D (SW–846), 8270 and 8430 (SW–846) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW–846 third edition. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method.

The EPA incorporates by reference VCS ASTM D5790–95 (Reapproved 2012), ''Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' as an acceptable alternative to EPA Method 624 (and for the analysis of total organic HAP in wastewater samples). For wastewater analyses, this ASTM method should be used with the sampling procedures of EPA Method 25D or an equivalent method to be a complete alternative. The ASTM standard is validated for all of the 21 volatile organic HAP (including toluene) targeted by EPA Method 624 but is also validated for an additional 14 HAP not targeted by the EPA method. This test method covers the identification and simultaneous measurement of purgeable volatile organic compounds. This method is applicable to a wide range of organic compounds that have sufficiently high volatility and low water solubility to be efficiently removed from water samples using purge and trap procedures. We note that because the Cellulose Products Manufacturing RTR proposed rule has already proposed to revise the performance test requirements table (Table 4 to subpart UUUU of part 63) to add IBR for ASTM D5790–95 (Reapproved 2012) (see 84 FR 47375, September 9, 2019), the EPA is not incorporating this specific aspect of this VCS by reference.

The EPA incorporates by reference VCS ASTM D6420–18, ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry'' as an acceptable alternative to EPA Method 18 with the following caveats. This ASTM procedure has been approved by the EPA as an alternative to EPA Method 18 only when the target compounds are all known and the target compounds are all listed in ASTM D6420–18 as measurable. ASTM D6420–18 should not be used for methane and ethane because the atomic mass is less than 35; and ASTM D6420–18 should never be specified as a total VOC method. The ASTM D6420–18 test method employs a direct interface gas chromatograph-mass spectrometer to measure 36 VOC. The test method provides on-site analysis of extracted, unconditioned, and unsaturated (at the instrument) gas samples from stationary sources.

The EPA incorporates by reference VCS ASTM D6784–02 (Reapproved 2008), ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),'' as an acceptable alternative to EPA Method 101A of appendix B to 40 CFR part 61 and EPA Method 29 of appendix A–8 to 40 CFR part 60 (portion for mercury only) as a method for measuring mercury. Note that this applies to concentrations of approximately 0.5 to 100 micrograms per normal cubic meter of air. This method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results. This method is applicable for sampling elemental, oxidized, and particle-bound mercury in flue gases of coal-fired stationary sources.

The three ASTM methods (ASTM D5790–95 (Reapproved 2012), ASTM D6420–18, and ASTM D6784–02 (Reapproved 2008)) are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See *https://www.astm.org/.*

While the EPA identified 23 other VCS as being potentially applicable, the Agency decided not to use them because these methods are impractical as alternatives because of the lack of equivalency, documentation, validation date, and other important technical and policy considerations. The search and review results have been documented and are in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing NESHAP RTR,* which is available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0018).[26]

Under 40 CFR 63.7(f) and 40 CFR 63.8(f), subpart A—General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

Finally, although not considered a VCS, the EPA incorporates by reference, ''Purge-And-Trap For Aqueous Samples'' (SW–846–5030B), ''Volatile, Nonpurgeable, Water-Soluble Compounds by Azeotropic Distillation'' (SW–846–5031), and ''Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS)'' (SW–846–8260D) into 40 CFR 63.2492(b) and (c)(1); and ''Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources,'' into 40 CFR 63.2490(d)(1)(iii)(A) and (B), and 40 CFR 63.2525(r)(4)(iv)(A). Each of these methods is used to identify organic HAP in water; however, SW–846–5031, SW–846–8260D, and SW–846–5030B use water sampling techniques and the Modified El Paso Method uses an air stripping sampling technique. The SW–846 methods are reasonably available from the EPA at *https://www.epa.gov/hw-sw846* while the Modified El Paso Method is reasonably available from TCEQ at *https://www.tceq.texas.gov/assets/public/compliance/field_ops/guidance/samplingappp.pdf.*

[26] At proposal, we identified two 40 CFR part 63, subpart SS, VCS (*i.e.,* ANSI/ASME PTC 19–10–1981–Part 10 and ASTM D6348–12e1) that were also identified in the NTTAA review for the Ethylene Production RTR, and these VCS have already been finalized as amendments in that action (for further information, see Docket ID No. EPA–HQ–OAR–2017–0357 and 84 FR 54329, October 9, 2019).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Organic Chemical Manufacturing Source Category Operations,* available in the docket for this rulemaking (see Docket Item No. EPA–HQ–OAR–2018–0746–0013).

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Revising paragraphs (h)(73), (94), and (102);
■ b. Redesignating paragraphs (n)(14) through (25) as paragraphs (n)(17) through (28) and paragraphs (n)(10) through (13) as paragraphs (n)(12) through (15);
■ c. Adding new paragraphs (n)(10), (11), and (16); and
■ d. Revising paragraph (t)(1).

The revisions and additions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(73) ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, Approved June 15, 2012, IBR approved for § 63.2485(h) and Table 4 to subpart UUUU.

* * * * *

(94) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved November 1, 2018 IBR approved for §§ 63.987(b), 63.997(e), and 63.2354(b), table 5 to subpart EEEE, and § 63.2450(j).

* * * * *

(102) ASTM D6784–02 (Reapproved 2008), Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), (Approved April 1, 2008), IBR approved for §§ 63.2465(d), 63.11646(a), and 63.11647(a) and (d) and tables 1, 2, 5, 11, 12t, and 13 to subpart DDDDD, tables 4 and 5 to subpart JJJJJ, tables 4 and 6 to subpart KKKKK, table 4 to subpart JJJJJJ, table 5 to subpart UUUUU, and appendix A to subpart UUUUU.

* * * * *

(n) * * *

(10) SW–846–5030B, Purge-And-Trap For Aqueous Samples, Revision 2, December 1996, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for § 63.2492(b) and (c).

(11) SW–846–5031, Volatile, Nonpurgeable, Water-Soluble Compounds by Azeotropic Distillation, Revision 0, December 1996, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for § 63.2492(b) and (c).

* * * * *

(16) SW–846–8260D, Volatile Organic Compounds By Gas Chromatography/Mass Spectrometry, Revision 4, June 2018, in EPA Publication No. SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for § 63.2492(b) and (c).

* * * * *

(t) * * *

(1) ''Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources,'' Revision Number One, dated January 2003, Sampling Procedures Manual, Appendix P: Cooling Tower Monitoring, January 31, 2003, IBR approved for §§ 63.654(c) and (g), 63.655(i), 63.1086(e), 63.1089, 63.2490(d), 63.2525(r), and 63.11920.

* * * * *

Subpart FFFF—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing

■ 3. Section 63.2435 is amended by revising paragraph (c)(3) to read as follows:

§ 63.2435 Am I subject to the requirements in this subpart?

* * * * *

(c) * * *

(3) The affiliated operations located at an affected source under subparts GG (National Emission Standards for Aerospace Manufacturing and Rework Facilities), KK (National Emission Standards for the Printing and Publishing Industry), JJJJ (NESHAP: Paper and Other Web Coating), MMMM (NESHAP: Surface Coating of Miscellaneous Metal Parts and Products), and SSSS (NESHAP: Surface Coating of Metal Coil) of this part. Affiliated operations include, but are not limited to, mixing or dissolving of coating ingredients; coating mixing for viscosity adjustment, color tint or additive blending, or pH adjustment; cleaning of coating lines and coating line parts; handling and storage of coatings and solvent; and conveyance and treatment of wastewater.

* * * * *

■ 4. Section 63.2445 is amended by revising paragraphs (a) introductory text and (b) and adding paragraphs (g) through (i) to read as follows:

§ 63.2445 When do I have to comply with this subpart?

(a) Except as specified in paragraphs (g) through (i) of this section, if you have a new affected source, you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

* * * * *

(b) Except as specified in paragraphs (g) through (i) of this section, if you have an existing source on November 10, 2003, you must comply with the requirements for existing sources in this subpart no later than May 10, 2008.

* * * * *

(g) All affected sources that commenced construction or reconstruction on or before December 17, 2019, must be in compliance with the requirements listed in paragraphs (g)(1) through (7) of this section upon

initial startup or on August 12, 2023, whichever is later. All affected sources that commenced construction or reconstruction after December 17, 2019, must be in compliance with the requirements listed in paragraphs (g)(1) through (7) of this section upon initial startup, or on August 12, 2020 whichever is later.

(1) The general requirements specified in §§ 63.2450(a)(2), (e)(4) through (7), (g)(6) and (7), (i)(3), (j)(5)(ii), (j)(6), (k)(1)(ii), (k)(7) and (8), (t), and (u), 63.2520(d)(3) and (e)(11) through (13), 63.2525(m) through (o), and 63.2535(m).

(2) For process vents, the requirements specified in §§ 63.2450(v), 63.2520(e)(14), and 63.2525(p).

(3) For storage tank degassing, the requirements specified in § 63.2470(f).

(4) For equipment leaks and pressure relief devices, the requirements specified in §§ 63.2480(e) and (f), 63.2520(d)(4) and (e)(14), and 63.2525(q).

(5) For wastewater streams and liquid streams in open systems within an MCPU, the requirements specified in § 63.2485(i)(2)(iii), (n)(2)(vii), (p), and (q).

(6) For heat exchange systems, the requirements specified in §§ 63.2490(d), 63.2520(e)(16), and 63.2525(r).

(7) The other notification, reports, and records requirements specified in §§ 63.2500(g), 63.2520(e)(5)(ii)(D) and (e)(5)(iii)(M) and (N), and 63.2525(l) and (u).

(h) All affected sources that commenced construction or reconstruction on or before December 17, 2019, must be in compliance with the requirements for pumps in light liquid service in § 63.2480(b)(6) and (c)(10) upon initial startup or on August 12, 2021, whichever is later. All affected sources that commenced construction or reconstruction after December 17, 2019, must be in compliance with the requirements for pumps in light liquid service in § 63.2480(b)(6) and (c)(10) upon initial startup, or on August 12, 2020, whichever is later.

(i) All affected sources that commenced construction or reconstruction on or before December 17, 2019, must be in compliance with the ethylene oxide requirements in §§ 63.2450(h) and (r), 63.2470(b) and (c)(4), 63.2492, 63.2493, 63.2520(d)(5) and (e)(17), and 63.2525(s) and Table 1 to this subpart, item 5, Table 2 to this subpart, item 3, Table 4 to this subpart, item 3, and Table 6 to this subpart, item 3, upon initial startup or on August 12, 2022, whichever is later. All affected sources that commenced construction or reconstruction after December 17, 2019, must be in compliance with the ethylene oxide requirements listed in §§ 63.2450(h) and (r), 63.2470(b) and (c)(4), 63.2492, 63.2493, 63.2520(d)(5) and (e)(17), and 63.2525(s) and Table 1 to this subpart, item 5, Table 2 to this subpart, item 3, Table 4 to this subpart, item 3, and Table 6 to this subpart, item 3, upon initial startup, or on August 12, 2020, whichever is later.

■ 5. Section 63.2450 is amended by:
■ a. Revising paragraphs (a), (c)(2) introductory text, and (e)(1) through (3);
■ b. Adding paragraphs (e)(4) through (7);
■ c. Revising paragraphs (f) introductory text, (g) introductory text, (g)(3)(ii), and (g)(5);
■ d. Adding paragraphs (g)(6) and (7);
■ e. Revising paragraphs (h), (i) introductory text, and (i)(2);
■ f. Adding paragraph (i)(3);
■ g. Revising paragraphs (j) introductory text, (j)(1) introductory text, (j)(1)(i), (j)(2)(iii), and (j)(3) through (5);
■ h. Adding paragraph (j)(6);
■ i. Revising paragraphs (k) introductory text, (k)(1), and (k)(4)(iv);
■ j. Adding paragraphs (k)(7) and (8);
■ k. Revising paragraphs (p) and (r); and
■ l. Adding paragraphs (t), (u), and (v).

The revisions and additions read as follows:

§ 63.2450 What are my general requirements for complying with this subpart?

(a) *General.* You must comply with paragraphs (a)(1) and (2) of this section.

(1) Except as specified in paragraph (a)(2) of this section, you must be in compliance with the emission limits and work practice standards in Tables 1 through 7 to this subpart at all times, except during periods of startup, shutdown, and malfunction (SSM), and you must meet the requirements specified in §§ 63.2455 through 63.2490 (or the alternative means of compliance in § 63.2495, § 63.2500, or § 63.2505), except as specified in paragraphs (b) through (s) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.2515, 63.2520, and 63.2525.

(2) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (a)(1) of this section no longer applies. Instead, you must be in compliance with the emission limits and work practice standards in Tables 1 through 7 to this subpart at all times, and you must meet the requirements specified in §§ 63.2455 through 63.2490 (or the alternative means of compliance in § 63.2495, § 63.2500, or § 63.2505), except as specified in paragraphs (b) through (v) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.2515, 63.2520, and 63.2525.

* * * * *

(c) * * *

(2) Determine the applicable requirements based on the hierarchy presented in paragraphs (c)(2)(i) through (vi) of this section. For a combined stream, the applicable requirements are specified in the highest-listed paragraph in the hierarchy that applies to any of the individual streams that make up the combined stream. For example, if a combined stream consists of emissions from Group 1 batch process vents and any other type of emission stream, then you must comply with the requirements in paragraph (c)(2)(i) of this section for the combined stream; compliance with the requirements in paragraph (c)(2)(i) of this section constitutes compliance for the other emission streams in the combined stream. Two exceptions are that you must comply with the requirements in Table 3 to this subpart and § 63.2465 for all process vents with hydrogen halide and halogen HAP emissions, and recordkeeping requirements for Group 2 applicability or compliance are still required (*e.g.,* the requirement in § 63.2525(e)(3) and (4) to track the number of batches produced and calculate rolling annual emissions for processes with Group 2 batch process vents).

* * * * *

(e) * * *

(1) Except when complying with § 63.2485, if you reduce organic HAP emissions by venting emissions through a closed-vent system to any combination of control devices (except a flare) or recovery devices, you must meet the requirements of paragraph (e)(4) of this section, and the requirements of § 63.982(c) and the requirements referenced therein.

(2) Except as specified in paragraph (e)(5) of this section or except when complying with § 63.2485, if you reduce organic HAP emissions by venting emissions through a closed-vent system to a flare, you must meet the requirements of paragraph (e)(4) of this section, and the requirements of § 63.982(b) and the requirements referenced therein.

(3) Except as specified in paragraphs (e)(3)(i) and (ii) of this section, if you use a halogen reduction device to reduce hydrogen halide and halogen HAP emissions from halogenated vent streams, you must meet the requirements of paragraph (e)(4) of this section, and the requirements of § 63.994 and the requirements referenced therein. If you use a halogen reduction device before a combustion

device, you must determine the halogen atom emission rate prior to the combustion device according to the procedures in § 63.115(d)(2)(v).

(i) Beginning on and after October 13, 2020, performance test reports must be submitted according to the procedures in § 63.2520(f).

(ii) If you use a halogen reduction device other than a scrubber, then you must submit procedures for establishing monitoring parameters to the Administrator as part of your precompliance report as specified in § 63.2520(c)(8).

(4) Beginning no later than the compliance dates specified in § 63.2445(g), the referenced provisions specified in paragraphs (e)(4)(i) through (xvi) of this section do not apply when demonstrating compliance with subpart SS of this part.

(i) The phrase "Except for equipment needed for safety purposes such as pressure relief devices, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines" in § 63.983(a)(3) of subpart SS.

(ii) The second sentence of § 63.983(a)(5) of subpart SS.

(iii) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.984(a) of subpart SS.

(iv) The phrase "except during periods of start-up, shutdown, and malfunction as specified in the referencing subpart" in § 63.985(a) of subpart SS.

(v) The phrase "other than start-ups, shutdowns, or malfunctions" in § 63.994(c)(1)(ii)(D) of subpart SS.

(vi) Section 63.996(c)(2)(ii) of subpart SS.

(vii) The last sentence of § 63.997(e)(1)(i) of subpart SS.

(viii) Section 63.998(b)(2)(iii) of subpart SS.

(ix) The phrase "other than start-ups, shutdowns or malfunctions" in § 63.998(b)(5)(i)(A) of subpart SS.

(x) The phrase "other than a start-up, shutdown, or malfunction" from § 63.998(b)(5)(i)(B)(*3*) of subpart SS.

(xi) The phrase "other than start-ups, shutdowns or malfunctions" in § 63.998(b)(5)(i)(C) of subpart SS.

(xii) The phrase "other than a start-up, shutdown, or malfunction" from § 63.998(b)(5)(ii)(C) of subpart SS.

(xiii) The phrase "except as provided in paragraphs (b)(6)(i)(A) and (B) of this section" in § 63.998(b)(6)(i) of subpart SS.

(xiv) The second sentence of § 63.998(b)(6)(ii) of subpart SS.

(xv) Section 63.998(c)(1)(ii)(D), (E), (F), and (G) of subpart SS.

(xvi) Section 63.998(d)(3) of subpart SS.

(5) For any flare that is used to reduce organic HAP emissions from an MCPU, you may elect to comply with the requirements in this paragraph in lieu of the requirements of § 63.982(b) and the requirements referenced therein. However, beginning no later than the compliance dates specified in § 63.2445(g), paragraphs (e)(2) and (f) of this section no longer apply to flares that control ethylene oxide emissions from affected sources in ethylene oxide service as defined in § 63.2550 and flares used to control emissions from MCPUs that produce olefins or polyolefins. Instead, if you reduce organic HAP emissions by venting emissions through a closed-vent system to a steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point flare that controls ethylene oxide emissions from affected sources in ethylene oxide service as defined in § 63.2550 or is used to control emissions from an MCPU that produces olefins or polyolefins, then you must meet the applicable requirements for flares as specified in §§ 63.670 and 63.671 of subpart CC, including the provisions in Tables 12 and 13 to subpart CC of this part, except as specified in paragraphs (e)(5)(i) through (xiii) of this section. This requirement in this paragraph (e)(5) also applies to any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from an MCPU that has processes and/or equipment in ethylene oxide service or that produces olefins or polyolefins, as determined on an annual average basis. For purposes of compliance with this paragraph (e)(5), the following terms are defined in § 63.641 of subpart CC: Assist air, assist steam, center steam, combustion zone, combustion zone gas, flare, flare purge gas, flare supplemental gas, flare sweep gas, flare vent gas, lower steam, net heating value, perimeter assist air, pilot gas, premix assist air, total steam, and upper steam. Also, for purposes of compliance with this paragraph (e)(5), "MCPUs that produces olefins or polyolefins" includes only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product. By-products and impurities as defined in § 63.101, as well as wastes and trace contaminants, are not considered products.

(i) When determining compliance with the pilot flame requirements specified in § 63.670(b) and (g), substitute "pilot flame or flare flame" for each occurrence of "pilot flame."

(ii) When determining compliance with the flare tip velocity and combustion zone operating limits specified in § 63.670(d) and (e), the requirement effectively applies starting with the 15-minute block that includes a full 15 minutes of the flaring event. You are required to demonstrate compliance with the velocity and NHVcz requirements starting with the block that contains the fifteenth minute of a flaring event. You are not required to demonstrate compliance for the previous 15-minute block in which the event started and contained only a fraction of flow.

(iii) Instead of complying with paragraph (o)(2)(i) of § 63.670 of subpart CC, you must develop and implement the flare management plan no later than the compliance dates specified in § 63.2445(g).

(iv) Instead of complying with paragraph (o)(2)(iii) of § 63.670 of subpart CC, if required to develop a flare management plan and submit it to the Administrator, then you must also submit all versions of the plan in portable document format (PDF) to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit a version with the CBI omitted via CEDRI. A complete plan, including information claimed to be CBI and clearly marked as CBI, must be mailed to the following address: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, CORE CBI Office, U.S. EPA Mailroom (C404–02), Attention: Miscellaneous Organic Chemical Manufacturing Sector Lead, 4930 Old Page Rd., Durham, NC 27703. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(v) Section 63.670(o)(3)(ii) of subpart CC and all references to § 63.670(o)(3)(ii) of subpart CC do not apply. Instead, the owner or operator

must comply with the maximum flare tip velocity operating limit at all times.

(vi) Substitute "MCPU" for each occurrence of "petroleum refinery."

(vii) Each occurrence of "refinery" does not apply.

(viii) If a pressure-assisted multi-point flare is used as a control device, then you must meet the following conditions:

(A) You are not required to comply with the flare tip velocity requirements in paragraph (d) and (k) of § 63.670 of subpart CC;

(B) You must substitute "800" for each occurrence of "270" in paragraph (e) of § 63.670 of subpart CC;

(C) You must determine the 15-minute block average NHVvg using only the direct calculation method specified in in paragraph (l)(5)(ii) of § 63.670 of subpart CC;

(D) Instead of complying with paragraph (b) and (g) of § 63.670 of subpart CC, if a pressure-assisted multi-point flare uses cross-lighting on a stage of burners rather than having an individual pilot flame on each burner, then you must operate each stage of the pressure-assisted multi-point flare with a flame present at all times when regulated material is routed to that stage of burners. Each stage of burners that cross-lights in the pressure-assisted multi-point flare must have at least two pilots with at least one continuously lit and capable of igniting all regulated material that is routed to that stage of burners. Each 15-minute block during which there is at least one minute where no pilot flame is present on a stage of burners when regulated material is routed to the flare is a deviation of the standard. Deviations in different 15-minute blocks from the same event are considered separate deviations. The pilot flame(s) on each stage of burners that use cross-lighting must be continuously monitored by a thermocouple or any other equivalent device used to detect the presence of a flame;

(E) Unless you choose to conduct a cross-light performance demonstration as specified in this paragraph (e)(5)(viii)(E), you must ensure that if a stage of burners on the flare uses cross-lighting, that the distance between any two burners in series on that stage is no more than 6 feet when measured from the center of one burner to the next burner. A distance greater than 6 feet between any two burners in series may be used provided you conduct a performance demonstration that confirms the pressure-assisted multi-point flare will cross-light a minimum of three burners and the spacing between the burners and location of the pilot flame must be representative of the projected installation. The compliance demonstration must be approved by the permitting authority and a copy of this approval must be maintained onsite. The compliance demonstration report must include: A protocol describing the test methodology used, associated test method QA/QC parameters, the waste gas composition and NHVcz of the gas tested, the velocity of the waste gas tested, the pressure-assisted multi-point flare burner tip pressure, the time, length, and duration of the test, records of whether a successful cross-light was observed over all of the burners and the length of time it took for the burners to cross-light, records of maintaining a stable flame after a successful cross-light and the duration for which this was observed, records of any smoking events during the cross-light, waste gas temperature, meteorological conditions (*e.g.,* ambient temperature, barometric pressure, wind speed and direction, and relative humidity), and whether there were any observed flare flameouts; and

(F) You must install and operate pressure monitor(s) on the main flare header, as well as a valve position indicator monitoring system for each staging valve to ensure that the flare operates within the proper range of conditions as specified by the manufacturer. The pressure monitor must meet the requirements in Table 13 to subpart CC of this part.

(G) If a pressure-assisted multi-point flare is operating under the requirements of an approved alternative means of emission limitations, you must either continue to comply with the terms of the alternative means of emission limitations or comply with the provisions in paragraphs (e)(5)(viii)(A) through (F) of this section.

(ix) If you choose to determine compositional analysis for net heating value with a continuous process mass spectrometer, then you must comply with the requirements specified in paragraphs (e)(5)(ix)(A) through (G) of this section.

(A) You must meet the requirements in § 63.671(e)(2). You may augment the minimum list of calibration gas components found in § 63.671(e)(2) with compounds found during a pre-survey or known to be in the gas through process knowledge.

(B) Calibration gas cylinders must be certified to an accuracy of 2 percent and traceable to National Institute of Standards and Technology (NIST) standards.

(C) For unknown gas components that have similar analytical mass fragments to calibration compounds, you may report the unknowns as an increase in the overlapped calibration gas compound. For unknown compounds that produce mass fragments that do not overlap calibration compounds, you may use the response factor for the nearest molecular weight hydrocarbon in the calibration mix to quantify the unknown component's NHVvg.

(D) You may use the response factor for n-pentane to quantify any unknown components detected with a higher molecular weight than n-pentane.

(E) You must perform an initial calibration to identify mass fragment overlap and response factors for the target compounds.

(F) You must meet applicable requirements in Performance Specification 9 of 40 CFR part 60, appendix B, for continuous monitoring system acceptance including, but not limited to, performing an initial multi-point calibration check at three concentrations following the procedure in Section 10.1 and performing the periodic calibration requirements listed for gas chromatographs in Table 13 to subpart CC of this part, for the process mass spectrometer. You may use the alternative sampling line temperature allowed under Net Heating Value by Gas Chromatograph in Table 13 to subpart CC of this part.

(G) The average instrument calibration error (CE) for each calibration compound at any calibration concentration must not differ by more than 10 percent from the certified cylinder gas value. The CE for each component in the calibration blend must be calculated using Equation 1 to this paragraph (e)(5)(ix)(G).

$$CE = \frac{C_m - C_a}{C_a} \; x \; 100 \text{ (Eq. 1)}$$

Where:

Cm = Average instrument response (ppm).

Ca = Certified cylinder gas value (ppm).

(x) If you use a gas chromatograph or mass spectrometer for compositional analysis for net heating value, then you may choose to use the CE of $NHV_{measured}$ versus the cylinder tag value NHV as the measure of agreement for daily calibration and quarterly audits in lieu of determining the compound-specific CE. The CE for NHV at any calibration level must not differ by more than 10 percent from the certified cylinder gas value. The CE for must be calculated using Equation 2 to this paragraph (e)(5)(x).

$$CE = \frac{NHV_{measured} - NHV_a}{NHV_a} \; x \; 100 \text{ (Eq. 2)}$$

Where:

$NHV_{measured}$ = Average instrument response (Btu/scf).

NHV_a = Certified cylinder gas value (Btu/scf).

(xi) Instead of complying with paragraph (q) of § 63.670 of subpart CC, you must comply with the reporting requirements specified in § 63.2520(d)(3) and (e)(11).

(xii) Instead of complying with paragraph (p) of § 63.670 of subpart CC, you must keep the flare monitoring records specified in § 63.2525(m).

(xiii) You may elect to comply with the alternative means of emissions limitation requirements specified in paragraph (r) of § 63.670 of subpart CC in lieu of the requirements in paragraphs (d) through (f) of § 63.670 of subpart CC, as applicable. However, instead of complying with paragraph (r)(3)(iii) of § 63.670 of subpart CC, you must also submit the alternative means of emissions limitation request to the following address: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (C404–02), Attention: Miscellaneous Organic Chemical Manufacturing Sector Lead, 4930 Old Page Rd., Durham, NC 27703.

(6) Beginning no later than the compliance dates specified in § 63.2445(g), the use of a bypass line at any time on a closed vent system to divert emissions subject to the requirements in Tables 1 through 7 to this subpart to the atmosphere or to a control device not meeting the requirements specified in Tables 1 through 7 to this subpart is an emissions standards deviation. You must also comply with the requirements specified in paragraphs (e)(6)(i) through (v) of this section, as applicable:

(i) If you are subject to the bypass monitoring requirements of § 63.148(f) of subpart G, then you must continue to comply with the requirements in § 63.148(f) of subpart G and the recordkeeping and reporting requirements in §§ 63.148(j)(2) and (3) of subpart G, and (h)(3) of subpart G, in addition to the applicable requirements specified in § 63.2485(q), the recordkeeping requirements specified in § 63.2525(n), and the reporting requirements specified in § 63.2520(e)(12).

(ii) If you are subject to the bypass monitoring requirements of § 63.172(j) of subpart H, then you must continue to comply with the requirements in § 63.172(j) of subpart H and the recordkeeping and reporting requirements in § 63.118(a)(3) and (4), and (f)(3) and (4) of subpart G, in addition to the applicable requirements specified in §§ 63.2480(f) and 63.2485(q), the recordkeeping requirements specified in § 63.2525(n), and the reporting requirements specified in § 63.2520(e)(12).

(iii) If you are subject to the bypass monitoring requirements of § 63.983(a)(3) of subpart SS, then you must continue to comply with the requirements in § 63.983(a)(3) of subpart SS and the recordkeeping and reporting requirements in §§ 63.998(d)(1)(ii) and 63.999(c)(2) of subpart SS, in addition to the requirements specified in § 63.2450(e)(4), the recordkeeping requirements specified in § 63.2525(n), and the reporting requirements specified in § 63.2520(e)(12).

(iv) If you are subject to the bypass monitoring requirements of § 65.143(a)(3) of this chapter, then you must continue to comply with the requirements in § 65.143(a)(3) and the recordkeeping and reporting requirements in §§ 65.163(a)(1) and 65.166(b) of this chapter; in addition to the applicable requirements specified in § 63.2480(f), the recordkeeping requirements specified in § 63.2525(n), and the reporting requirements specified in § 63.2520(e)(12).

(v) For purposes of compliance with this paragraph (e)(6), §§ 63.148(f)(3) of subpart G, and 63.172(j)(3) of subpart H, the phrase "Except for equipment needed for safety purposes such as pressure relief devices, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines" in § 63.983(a)(3) of subpart SS, and the phrase "Except for pressure relief devices needed for safety purposes, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines" in § 65.143(a)(3) of this chapter do not apply; instead, the exemptions specified in paragraphs (e)(6)(v)(A) and (B) of this section apply.

(A) Except for pressure relief devices subject to § 63.2480(e)(4), equipment such as low leg drains and equipment subject to the requirements specified in § 63.2480 are not subject to this paragraph (e)(6).

(B) Open-ended valves or lines that use a cap, blind flange, plug, or second valve and follow the requirements specified in 40 CFR 60.482–6(a)(2), (b), and (c) or follow requirements codified in another regulation that are the same as 40 CFR 60.482–6(a)(2), (b), and (c) are not subject to this paragraph (e)(6).

(7) Beginning no later than the compliance dates specified in § 63.2445(g), if you reduce organic HAP emissions by venting emissions through a closed-vent system to an adsorber(s) that cannot be regenerated or a regenerative adsorber(s) that is regenerated offsite, then you must comply with paragraphs (e)(4) and (6) of this section and the requirements in § 63.983, and you must install a system of two or more adsorber units in series and comply with the requirements specified in paragraphs (e)(7)(i) through (iii) of this section.

(i) Conduct an initial performance test or design evaluation of the adsorber and establish the breakthrough limit and adsorber bed life.

(ii) Monitor the HAP or total organic compound (TOC) concentration through a sample port at the outlet of the first adsorber bed in series according to the schedule in paragraph (e)(7)(iii)(B) of this section. You must measure the concentration of HAP or TOC using either a portable analyzer, in accordance with Method 21 of 40 CFR part 60, appendix A–7, using methane, propane, isobutylene, or the primary HAP being controlled as the calibration gas or Method 25A of 40 CFR part 60, appendix A–7, using methane, propane, or the primary HAP being controlled as the calibration gas.

(iii) Comply with paragraph (e)(7)(iii)(A) of this section, and comply with the monitoring frequency according to paragraph (e)(7)(iii)(B) of this section.

(A) The first adsorber in series must be replaced immediately when breakthrough, as defined in § 63.2550(i), is detected between the first and second adsorber. The original second adsorber (or a fresh canister) will become the new first adsorber and a fresh adsorber will become the second adsorber. For purposes of this paragraph (e)(7)(iii)(A), "immediately" means within 8 hours of the detection of a breakthrough for adsorbers of 55 gallons or less, and within 24 hours of the detection of a breakthrough for adsorbers greater than 55 gallons. You must monitor at the outlet of the first adsorber within 3 days of replacement to confirm it is performing properly.

(B) Based on the adsorber bed life established according to paragraph (e)(7)(i) of this section and the date the adsorbent was last replaced, conduct monitoring to detect breakthrough at least monthly if the adsorbent has more than 2 months of life remaining, at least weekly if the adsorbent has between 2 months and 2 weeks of life remaining, and at least daily if the adsorbent has 2 weeks or less of life remaining.

(f) *Requirements for flare compliance assessments.* Except as specified in paragraph (e)(5) of this section, you must comply with paragraphs (f)(1) and (2) of this section.

* * * * *

(g) *Requirements for performance tests.* The requirements specified in paragraphs (g)(1) through (7) of this

section apply instead of or in addition to the requirements specified in subpart SS of this part.

* * * * *

(3) * * *

(ii) If you elect to comply with the outlet TOC concentration emission limits in Tables 1 through 7 to this subpart, and the uncontrolled or inlet gas stream to the control device contains greater than 10 percent (volume concentration) carbon disulfide, you must use Method 18 or Method 15 of 40 CFR part 60, appendix A, to separately determine the carbon disulfide concentration. Calculate the total HAP or TOC emissions by totaling the carbon disulfide emissions measured using Method 18 or 15 of 40 CFR part 60, appendix A, and the other HAP emissions measured using Method 18 or 25A of 40 CFR part 60, appendix A.

* * * * *

(5) Section 63.997(c)(1) does not apply. For the purposes of this subpart, results of all initial compliance demonstrations must be included in the notification of compliance status report, which is due 150 days after the compliance date, as specified in § 63.2520(d)(1). If the initial compliance demonstration includes a performance test and the results are submitted electronically via CEDRI in accordance with § 63.2520(f), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the notification of compliance status report in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the notification of compliance status report is submitted.

(6) Beginning no later than the compliance dates specified in § 63.2445(g), in lieu of the requirements specified in § 63.7(e)(1) of subpart A you must conduct performance tests under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(7) Comply with the requirements in § 63.2450(e)(4), as applicable.

(h) *Design evaluation.* To determine the percent reduction of a small control device that is used to comply with an emission limit specified in Table 1, 2, 3, or 5 to this subpart, you may elect to conduct a design evaluation as specified in § 63.1257(a)(1) instead of a performance test as specified in subpart SS of this part. You must establish the value(s) and basis for the operating limits as part of the design evaluation. For continuous process vents, the design evaluation must be conducted at maximum representative operating conditions for the process, unless the Administrator specifies or approves alternate operating conditions. For transfer racks, the design evaluation must demonstrate that the control device achieves the required control efficiency during the reasonably expected maximum transfer loading rate. Beginning no later than the compliance dates specified in § 63.2445(i), this paragraph (h) does not apply to process vents in ethylene oxide service as defined in § 63.2550.

(i) *Outlet concentration correction for combustion devices.* Except as specified in paragraph (i)(3) of this section, when § 63.997(e)(2)(iii)(C) requires you to correct the measured concentration at the outlet of a combustion device to 3-percent oxygen if you add supplemental combustion air, the requirements in either paragraph (i)(1) or (2) of this section apply for the purposes of this subpart.

* * * * *

(2) You must correct the measured concentration for supplemental gases using Equation 1 in § 63.2460(c)(6); you may use process knowledge and representative operating data to determine the fraction of the total flow due to supplemental gas.

(3) Beginning no later than the compliance dates specified in § 63.2445(g), paragraphs (i)(1) and (2) of this section no longer apply. Instead, when § 63.997(e)(2)(iii)(C) requires you to correct the measured concentration at the outlet of a combustion device to 3-percent oxygen if you add supplemental combustion air, you must follow the procedures in § 63.997(e)(2)(iii)(C) to perform the concentration correction, except you may also use Method 3A of 40 CFR part 60, appendix A–2, to determine the oxygen concentration.

(j) *Continuous emissions monitoring systems.* Each continuous emissions monitoring system (CEMS) must be installed, operated, and maintained according to the requirements in § 63.8 of subpart A and paragraphs (j)(1) through (6) of this section.

(1) Each CEMS must be installed, operated, and maintained according to the applicable Performance Specification of 40 CFR part 60, appendix B, and the applicable Quality Assurance Procedures of 40 CFR part 60, appendix F, and according to paragraph (j)(2) of this section, except as specified in paragraph (j)(1)(i) of this section. For any CEMS meeting Performance Specification 8 of 40 CFR part 60, appendix B, you must also comply with procedure 1 of 40 CFR part 60, appendix F. Locate the sampling probe or other interface at a measurement location such that you obtain representative measurements of emissions from the regulated source. For CEMS installed after August 12, 2020, conduct a performance evaluation of each CEMS within 180 days of installation of the monitoring system.

(i) If you wish to use a CEMS other than a Fourier Transform Infrared Spectroscopy (FTIR) meeting the requirements of Performance Specification 15 of 40 CFR part 60, appendix B, to measure hydrogen halide, other than hydrogen chloride, and halogen HAP or CEMS meeting the requirements of Performance Specification 18 of 40 CFR part 60, appendix B, to measure hydrogen chloride before we promulgate a Performance Specification for such CEMS, you must prepare a monitoring plan and submit it for approval in accordance with the procedures specified in § 63.8 of subpart A.

* * * * *

(2) * * *

(iii) For CEMS meeting Performance Specification 8 of 40 CFR part 60, appendix B, used to monitor performance of a noncombustion device, determine the predominant organic HAP using either process knowledge or the screening procedures of Method 18 of 40 CFR part 60, appendix A–6, on the control device inlet stream, calibrate the monitor on the predominant organic HAP, and report the results as C_1. Use Method 18 of 40 CFR part 60, appendix A–6, Method 320 of appendix A to this part, ASTM D6420–18 (incorporated by reference, see § 63.14), or any approved alternative as the reference method for the relative accuracy tests, and report the results as C_1.

(3) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8 of subpart A and according to the applicable Performance Specification of 40 CFR part 60, appendix B, except that the schedule in § 63.8(e)(4) of subpart A does not apply, and before October 13, 2020, the results of the performance evaluation must be included in the

notification of compliance status report. Unless otherwise specified in this subpart, beginning on and after October 13, 2020, the results of the performance evaluation must be submitted in accordance with § 63.2520(g).

(4) The CEMS data must be reduced to operating day or operating block averages computed using valid data consistent with the data availability requirements specified in § 63.999(c)(6)(i)(B) through (D), except monitoring data also are sufficient to constitute a valid hour of data if measured values are available for at least two of the 15-minute periods during an hour when calibration, quality assurance, or maintenance activities are being performed. An operating block is a period of time from the beginning to end of batch operations within a process. Operating block averages may be used only for batch process vent data. In computing operating day or operating block averages to determine compliance with this subpart, you must exclude monitoring data recorded during CEMS breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, or other quality assurance activities. Out-of-control periods are as specified in § 63.8(c)(7) of subpart A.

(5) If you add supplemental gases, you must comply with paragraphs (j)(5)(i) and (ii) of this section.

(i) Except as specified in paragraph (j)(5)(ii) of this section, correct the measured concentrations in accordance with paragraph (i) of this section and § 63.2460(c)(6).

(ii) Beginning no later than the compliance dates specified in § 63.2445(g), you must use Performance Specification 3 of 40 CFR part 60, appendix B, to certify your oxygen CEMS, and you must comply with procedure 1 of 40 CFR part 60, appendix F. Use Method 3A of 40 CFR part 60, appendix A–2, as the reference method when conducting a relative accuracy test audit.

(6) Beginning no later than the compliance dates specified in § 63.2445(g), in lieu of the requirements specified in § 63.8(d)(3) of subpart A you must keep the written procedures required by § 63.8(d)(2) of subpart A on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you must keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2) of subpart A. In addition to the information required in § 63.8(d)(2) of subpart A, your written procedures for CEMS must include the information in paragraphs (j)(6)(i) through (vi) of this section:

(i) Description of CEMS installation location.

(ii) Description of the monitoring equipment, including the manufacturer and model number for all monitoring equipment components and the span of the analyzer.

(iii) Routine quality control and assurance procedures.

(iv) Conditions that would trigger a CEMS performance evaluation, which must include, at a minimum, a newly installed CEMS; a process change that is expected to affect the performance of the CEMS; and the Administrator's request for a performance evaluation under section 114 of the Clean Air Act.

(v) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1) and (3), (c)(4)(ii), and (c)(7) and (8) of subpart A;

(vi) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1) of subpart A.

(k) *Continuous parameter monitoring.* The provisions in paragraphs (k)(1) through (8) of this section apply in addition to the requirements for continuous parameter monitoring system (CPMS) in subpart SS of this part.

(1) You must comply with paragraphs (k)(1)(i) and (ii) of this section.

(i) Except as specified in paragraph (k)(1)(ii) of this section, record the results of each calibration check and all maintenance performed on the CPMS as specified in § 63.998(c)(1)(ii)(A).

(ii) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (k)(1)(i) of this section no longer applies. Instead, you must record the results of each calibration check and all maintenance performed on the CPMS as specified in § 63.998(c)(1)(ii)(A), except you must record all maintenance, not just preventative maintenance.

* * * * *

(4) * * *

(iv) Recording the downstream temperature and temperature difference across the catalyst bed as specified in § 63.998(a)(2)(ii)(B)(*2*) and (c)(2)(ii) is not required.

* * * * *

(7) Beginning no later than the compliance dates specified in § 63.2445(g), the manufacturer's specifications or your written procedures must include a schedule for calibrations, preventative maintenance procedures, a schedule for preventative maintenance, and corrective actions to be taken if a calibration fails. If a CPMS calibration fails, the CPMS is considered to be inoperative until you take corrective action and the system passes calibration. You must record the nature and cause of instances when the CPMS is inoperative and the corrective action taken.

(8) You must comply with the requirements in paragraph (e)(4) of this section, as applicable.

* * * * *

(p) *Original safety device requirements.* Except as specified in paragraph (t) of this section, opening a safety device, as defined in § 63.2550, is allowed at any time conditions require it to avoid unsafe conditions.

* * * * *

(r) *Surge control vessels and bottoms receivers.* For each surge control vessel or bottoms receiver that meets the capacity and vapor pressure thresholds for a Group 1 storage tank, you must meet emission limits and work practice standards specified in Table 4 to this subpart. Beginning no later than the compliance dates specified in § 63.2445(i), for each surge control vessel and bottoms receiver in ethylene oxide service as defined in § 63.2550, you must also meet the applicable process vent requirements specified in §§ 63.2492 and 63.2493(a) through (c).

* * * * *

(t) *New safety device requirements.* Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (p) of this section no longer applies. Instead, you must comply with the requirements specified in § 63.2480(e).

(u) *General duty.* Beginning no later than the compliance dates specified in § 63.2445(g), at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on

information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(v) *Maintenance vents.* Beginning no later than the compliance dates specified in § 63.2445(g), you may designate a process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed, or placed into service. You must comply with the applicable requirements in paragraphs (v)(1) through (3) of this section for each maintenance vent. Any vent designated as a maintenance vent is only subject to the maintenance vent provisions in this paragraph (v) and the associated recordkeeping and reporting requirements in §§ 63.2525(p) and 63.2520(e)(14), respectively. You do not need to designate a maintenance vent as a Group 1 or Group 2 process vent nor identify maintenance vents in a Notification of Compliance Status report.

(1) Prior to venting to the atmosphere, remove process liquids from the equipment as much as practical and depressurize the equipment to either: A flare meeting the requirements of paragraph (e)(2) or (5) of this section, as applicable, or a non-flare control device meeting the requirements in paragraph (e)(4) of this section and the requirements specified in § 63.982(c)(2) of subpart SS until one of the following conditions, as applicable, is met.

(i) The vapor in the equipment served by the maintenance vent has a lower explosive limit (LEL) of less than 10 percent and has an outlet concentration less than or equal to 20 ppmv hydrogen halide and halogen HAP.

(ii) If there is no ability to measure the LEL of the vapor in the equipment based on the design of the equipment, the pressure in the equipment served by the maintenance vent is reduced to 5 pounds per square inch gauge (psig) or less. Upon opening the maintenance vent, active purging of the equipment cannot be used until the LEL of the vapors in the maintenance vent (or inside the equipment if the maintenance is a hatch or similar type of opening) is less than 10 percent.

(iii) The equipment served by the maintenance vent contains less than 50 pounds of total volatile organic compounds (VOC).

(iv) If, after applying best practices to isolate and purge equipment served by a maintenance vent, none of the applicable criterion in paragraphs (v)(1)(i) through (iii) of this section can be met prior to installing or removing a blind flange or similar equipment blind, then the pressure in the equipment served by the maintenance vent must be reduced to 2 psig or less before installing or removing the equipment blind. During installation or removal of the equipment blind, active purging of the equipment may be used provided the equipment pressure at the location where purge gas is introduced remains at 2 psig or less.

(2) Except for maintenance vents complying with the alternative in paragraph (v)(1)(iii) of this section, you must determine the LEL or, if applicable, equipment pressure using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(3) For maintenance vents complying with the alternative in paragraph (v)(1)(iii) of this section, you must determine mass of VOC in the equipment served by the maintenance vent based on the equipment size and contents after considering any contents drained or purged from the equipment. Equipment size may be determined from equipment design specifications. Equipment contents may be determined using process knowledge.

■ 6. Section 63.2455 is amended by revising paragraph (a) to read as follows:

§ 63.2455 What requirements must I meet for continuous process vents?

(a) You must meet each emission limit in Table 1 to this subpart that applies to your continuous process vents, and you must meet each applicable requirement specified in paragraphs (b) through (c) of this section and §§ 63.2492 and 63.2493(a) through (c).

* * * * *

■ 7. Section 63.2460 is amended by revising paragraphs (a), (b)(5) introductory text, (b)(5)(iii), (b)(6) introductory text, (c)(2)(i), (ii), and (v), the first sentence of (c)(6) introductory text, (c)(9) introductory text, (c)(9)(ii) introductory text, (c)(9)(ii)(D), and (c)(9)(iii) and (iv) to read as follows:

§ 63.2460 What requirements must I meet for batch process vents?

(a) *General.* You must meet each emission limit in Table 2 to this subpart that applies to you, and you must meet each applicable requirement specified in paragraphs (b) and (c) of this section and §§ 63.2492 and 63.2493(a) through (c).

(b) * * *

(5) You may elect to designate the batch process vents within a process as Group 1 and not calculate uncontrolled emissions if you comply with one of the situations in paragraph (b)(5)(i), (ii), or (iii) of this section.

* * * * *

(iii) If you comply with an emission limit using a flare that meets the requirements specified in § 63.987 or § 63.2450(e)(5), as applicable.

(6) You may change from Group 2 to Group 1 in accordance with either paragraph (b)(6)(i) or (ii) of this section. Before October 13, 2020, you must comply with the requirements of this section and submit the test report. Beginning on and after October 13, 2020, you must comply with the requirements of this section and submit the performance test report for the demonstration required in § 63.1257(b)(8) in accordance with § 63.2520(f).

* * * * *

(c) * * *

(2) * * *

(i) To demonstrate initial compliance with a percent reduction emission limit in Table 2 to this subpart, you must compare the sums of the controlled and uncontrolled emissions for the applicable Group 1 batch process vents within the process, and show that the specified reduction is met. This requirement does not apply if you comply with the emission limits of Table 2 to this subpart by using a flare that meets the requirements of § 63.987 or 63.2450(e)(5), as applicable.

(ii) When you conduct a performance test or design evaluation for a non-flare control device used to control emissions from batch process vents, you must establish emission profiles and conduct the test under worst-case conditions according to § 63.1257(b)(8) instead of under normal operating conditions as specified in § 63.7(e)(1) of subpart A or the conditions as specified in § 63.2450(g)(6). The requirements in § 63.997(e)(1)(i) and (iii) also do not apply for performance tests conducted to determine compliance with the emission limits for batch process vents. For purposes of this subpart, references in § 63.997(b)(1) to "methods specified in § 63.997(e)" include the methods specified in § 63.1257(b)(8).

* * * * *

(v) If a process condenser is used for boiling operations in which HAP (not as an impurity) is heated to the boiling point, you must demonstrate that it is properly operated according to the procedures specified in § 63.1257(d)(2)(i)(C)(*4*)(*ii*) and (d)(3)(iii)(B), and the demonstration

must occur only during the boiling operation. The reference in § 63.1257(d)(3)(iii)(B) to the alternative standard in § 63.1254(c) means § 63.2505 for the purposes of this subpart. As an alternative to measuring the exhaust gas temperature, as required by § 63.1257(d)(3)(iii)(B), you may elect to measure the liquid temperature in the receiver.

* * * * *

(6) *Outlet concentration correction for supplemental gases.* If you use a control device other than a combustion device to comply with a TOC, organic HAP, or hydrogen halide and halogen HAP outlet concentration emission limit for batch process vents, you must correct the actual concentration for supplemental gases using Equation 1 to this paragraph (e)(6); you may use process knowledge and representative operating data to determine the fraction of the total flow due to supplemental gas.

* * * * *

(9) *Requirements for a biofilter.* If you use a biofilter to meet either the 95-percent reduction requirement or outlet concentration requirement specified in Table 2 to this subpart, you must meet the requirements specified in paragraphs (c)(9)(i) through (vi) of this section.

* * * * *

(ii) *Performance tests.* To demonstrate initial compliance, you must conduct a performance test according to the procedures in §§ 63.2450(g) and 63.997 of subpart SS, and paragraphs (c)(9)(ii)(A) through (D) of this section. The design evaluation option for small control devices is not applicable if you use a biofilter.

* * * * *

(D) Before October 13, 2020, submit a performance test report as specified in § 63.999(a)(2)(i) and (ii) and include the records from paragraph (c)(9)(ii)(B) of this section. Beginning on and after October 13, 2020, you must submit a performance test report as specified in § 63.2520(f).

(iii) *Monitoring requirements.* Use either a biofilter bed temperature monitoring device (or multiple devices) capable of providing a continuous record or an organic monitoring device capable of providing a continuous record. Comply with the requirements in § 63.2450(e)(4), the general requirements for monitoring in § 63.996, and keep records of temperature or other parameter monitoring results as specified in § 63.998(b) and (c), as applicable. If you monitor temperature, the operating temperature range must be based on only the temperatures measured during the performance test; these data may not be supplemented by engineering assessments or manufacturer's recommendations as otherwise allowed in § 63.999(b)(3)(ii)(A). If you establish the operating range (minimum and maximum temperatures) using data from previous performance tests in accordance with § 63.996(c)(6), replacement of the biofilter media with the same type of media is not considered a process change under § 63.997(b)(1). You may expand your biofilter bed temperature operating range by conducting a repeat performance test that demonstrates compliance with the 95-percent reduction requirement or outlet concentration limit, as applicable.

(iv) *Repeat performance tests.* You must conduct a repeat performance test using the applicable methods specified in §§ 63.2450(g) and 63.997 within 2 years following the previous performance test and within 150 days after each replacement of any portion of the biofilter bed media with a different type of media or each replacement of more than 50 percent (by volume) of the biofilter bed media with the same type of media.

■ 8. Section 63.2465 is amended by revising paragraphs (c) introductory text and (d)(2) to read as follows:

§ 63.2465 What requirements must I meet for process vents that emit hydrogen halide and halogen HAP or HAP metals?

* * * * *

(c) If collective uncontrolled hydrogen halide and halogen HAP emissions from the process vents within a process are greater than or equal to 1,000 pounds per year (lb/yr), you must comply with the requirements in § 63.2450(e)(4) and the requirements of § 63.994 and the requirements referenced therein, except as specified in paragraphs (c)(1) through (3) of this section.

* * * * *

(d) * * *

(2) Conduct an initial performance test of each control device that is used to comply with the emission limit for HAP metals specified in Table 3 to this subpart. Conduct the performance test according to the procedures in §§ 63.2450(g) and 63.997. Use Method 29 of 40 CFR part 60, appendix A, to determine the HAP metals at the inlet and outlet of each control device, or use Method 5 of 40 CFR part 60, appendix A, to determine the total particulate matter (PM) at the inlet and outlet of each control device. You may use ASTM D6784–02 (Reapproved 2008) (incorporated by reference, see § 63.14) as an alternative to Method 29 (portion for mercury only) as a method for measuring mercury concentrations of 0.5 to 100 micrograms per standard cubic meter. You have demonstrated initial compliance if the overall reduction of either HAP metals or total PM from the process is greater than or equal to 97 percent by weight.

* * * * *

■ 9. Section 63.2470 is amended by revising paragraph (a), adding paragraph (b), revising paragraphs (c) and (e)(3), and adding paragraph (f) to read as follows:

§ 63.2470 What requirements must I meet for storage tanks?

(a) *General.* You must meet each emission limit in Table 4 to this subpart that applies to your storage tanks, and except as specified in paragraph (b) of this section, you must also meet each applicable requirement specified in paragraphs (c) through (f) of this section and §§ 63.2492 and 63.2493(a) through (c).

(b) *General for storage tanks in ethylene oxide service.* On and after the compliance dates specified in § 63.2445(i), paragraphs (d) and (e) of this section do not apply to storage tanks in ethylene oxide service as defined in § 63.2550.

(c) *Exceptions to subparts SS and WW of this part.* (1) Except as specified in paragraph (c)(4)(ii) of this section, if you conduct a performance test or design evaluation for a control device used to control emissions only from storage tanks, you must establish operating limits, conduct monitoring, and keep records using the same procedures as required in subpart SS of this part for control devices used to reduce emissions from process vents instead of the procedures specified in §§ 63.985(c), 63.998(d)(2)(i), and 63.999(b)(2). You must also comply with the requirements in § 63.2450(e)(4), as applicable.

(2) Except as specified in paragraph (c)(4) of this section, when the term "storage vessel" is used in subparts SS and WW of this part, the term "storage tank," as defined in § 63.2550 applies for the purposes of this subpart.

(3) For adsorbers that cannot be regenerated or regenerative adsorbers that are regenerated offsite, you must comply with the monitoring requirements in § 63.2450(e)(7) in lieu of § 63.995(c).

(4) Beginning no later than the compliance dates specified in § 63.2445(i), you must comply with paragraphs (c)(4)(i) and (ii) of this section.

(i) The exemptions for "vessels storing organic liquids that contain HAP only as impurities" and "pressure

vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere'' listed in the definition of ''storage tank'' in § 63.2550 do not apply for storage tanks in ethylene oxide service.

(ii) For storage tanks in ethylene oxide service as defined in § 63.2550, you may not use a design evaluation to determine the percent reduction of any control device that is used to comply with an emission limit specified in Table 4 to this subpart.

* * * * *

(e) * * *

(3) You may elect to set a pressure relief device to a value less than the 2.5 psig required in § 63.1253(f)(5) if you provide rationale in your notification of compliance status report explaining why the alternative value is sufficient to prevent breathing losses at all times.

* * * * *

(f) *Storage tank degassing.* Beginning no later than the compliance dates specified in § 63.2445(g), for each storage tank subject to item 1 of Table 4 to this subpart, you must comply with paragraphs (f)(1) through (3) of this section during storage tank shutdown operations (*i.e.,* emptying and degassing of a storage tank) until the vapor space concentration in the storage tank is less than 10 percent of the LEL. You must determine the LEL using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(1) Remove liquids from the storage tank as much as practicable.

(2) Comply with one of the following:

(i) Reduce emissions of total organic HAP by venting emissions through a closed vent system to a flare.

(ii) Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of non-flare control devices.

(iii) Reduce emissions of total organic HAP by routing emissions to a fuel gas system or process and meet the requirements specified in § 63.982(d) and the applicable requirements in § 63.2450(e)(4).

(3) Maintain records necessary to demonstrate compliance with the requirements in § 63.2450(u) including, if appropriate, records of existing standard site procedures used to empty and degas (deinventory) equipment for safety purposes.

■ 10. Section 63.2475 is amended by revising paragraph (a) to read as follows:

§ 63.2475 What requirements must I meet for transfer racks?

(a) You must comply with each emission limit and work practice standard in Table 5 to this subpart that applies to your transfer racks, and you must meet each applicable requirement in paragraph (b) of this section.

* * * * *

■ 11. Section 63.2480 is amended by:

■ a. Revising paragraphs (a), (b) introductory text, and (b)(1), (2), and (5);

■ b. Adding paragraphs (b)(6) and (7);

■ c. Revising paragraphs (c) introductory text and (c)(5); and

■ d. Adding paragraphs (c)(10) and (11), (e), and (f).

The revisions and additions read as follows:

§ 63.2480 What requirements must I meet for equipment leaks?

(a) You must meet each requirement in Table 6 to this subpart that applies to your equipment leaks, except as specified in paragraphs (b) through (f) of this section. For each light liquid pump, valve, and connector in ethylene oxide service as defined in § 63.2550(i), you must also meet the applicable requirements specified in §§ 63.2492 and 63.2493(d) and (e).

(b) Except as specified in paragraphs (b)(6) and (7) of this section, if you comply with either subpart H or UU of this part, you may elect to comply with the provisions in paragraphs (b)(1) through (5) of this section as an alternative to the referenced provisions in subpart H or UU of this part.

(1) The requirements for pressure testing in § 63.178(b) or § 63.1036(b) may be applied to all processes, not just batch processes.

(2) For the purposes of this subpart, pressure testing for leaks in accordance with § 63.178(b) or § 63.1036(b) is not required after reconfiguration of an equipment train if flexible hose connections are the only disturbed equipment.

* * * * *

(5) Except as specified in paragraph (b)(6) of this section, for pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source, you may elect to consider the leak definition that defines a leak to be 10,000 parts per million (ppm) or greater as an alternative to the values specified in § 63.1026(b)(2)(i) through (iii) or § 63.163(b)(2).

(6) Beginning no later than the compliance dates specified in § 63.2445(h), paragraph (b)(5) of this section no longer applies.

(7) For each piece of equipment that is subject to Table 6 to this subpart and is also subject to periodic monitoring with EPA Method 21 of 40 CFR part 60, appendix A–7, and is added to an affected source after December 17, 2019, or replaces equipment at an affected source after December 17, 2019, you must initially monitor for leaks within 30 days after August 12, 2020, or initial startup of the equipment, whichever is later. Equipment that is designated as unsafe- or difficult-to-monitor is not subject to this paragraph (b)(7).

(c) Except as specified in paragraphs (c)(10) and (11) of this section, if you comply with 40 CFR part 65, subpart F, you may elect to comply with the provisions in paragraphs (c)(1) through (9) of this section as an alternative to the referenced provisions in 40 CFR part 65, subpart F.

* * * * *

(5) Except as specified in paragraph (c)(10) of this section, for pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source, you may elect to consider the leak definition that defines a leak to be 10,000 ppm or greater as an alternative to the values specified in § 65.107(b)(2)(i) through (iii) of this chapter.

* * * * *

(10) Beginning no later than the compliance dates specified in § 63.2445(h), paragraph (c)(5) of this section no longer applies.

(11) For each piece of equipment that is subject to Table 6 to this subpart and is also subject to periodic monitoring with EPA Method 21 of 40 CFR part 60, appendix A–7, and is added to an affected source after December 17, 2019, or replaces equipment at an affected source after December 17, 2019, you must initially monitor for leaks within 30 days after August 12, 2020, or initial startup of the equipment, whichever is later. Equipment that is designated as unsafe- or difficult-to-monitor is not subject to this paragraph (c)(11).

* * * * *

(e) Beginning no later than the compliance dates specified in § 63.2445(g), except as specified in paragraph (e)(4) of this section, you must comply with the requirements specified in paragraphs (e)(1) and (2) of this section for pressure relief devices, such as relief valves or rupture disks, in organic HAP gas or vapor service instead of the pressure relief device requirements of § 63.1030 of subpart UU, § 63.165 of subpart H, or § 65.111 of this chapter. Except as specified in paragraphs (e)(4) and (5) of this section, you must also comply with the requirements specified in paragraphs (e)(3), (6), (7), and (8) of this section for

all pressure relief devices in organic HAP service.

(1) *Operating requirements.* Except during a pressure release, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as measured by the method in § 63.1023(b) of subpart UU, § 63.180(c) of subpart H, or § 65.104(b) of this chapter.

(2) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, you must comply with the applicable requirements paragraphs (e)(2)(i) through (iii) of this section following a pressure release.

(i) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as specified in § 63.1023(b) of subpart UU, § 63.180(c) of subpart H, or § 65.104(b) of this chapter, no later than 5 calendar days after the pressure relief device returns to organic HAP gas or vapor service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm.

(ii) If the pressure relief device includes a rupture disk, either comply with the requirements in paragraph (e)(2)(i) of this section (and do not replace the rupture disk) or install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release. You must conduct instrument monitoring, as specified in § 63.1023(b) of subpart UU, § 63.180(c) of subpart H, or § 65.104(b) of this chapter, no later than 5 calendar days after the pressure relief device returns to organic HAP gas or vapor service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm.

(iii) If the pressure relief device consists only of a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release. You must not initiate startup of the equipment served by the rupture disk until the rupture disc is replaced. You must conduct instrument monitoring, as specified in § 63.1023(b) of subpart UU, § 63.180(c) of subpart H, or § 65.104(b) of this chapter, no later than 5 calendar days after the pressure relief device returns to organic HAP gas or vapor service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm.

(3) *Pressure release management.* Except as specified in paragraphs (e)(4) and (5) of this section, you must comply with the requirements specified in paragraphs (e)(3)(i) through (v) of this section for all pressure relief devices in organic HAP service.

(i) You must equip each affected pressure relief device with a device(s) or use a monitoring system that is capable of:

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring. The device or monitoring system must be either specific to the pressure relief device itself or must be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(ii) You must apply at least three redundant prevention measures to each affected pressure relief device and document these measures. Examples of prevention measures include:

(A) Flow, temperature, liquid level and pressure indicators with deadman switches, monitors, or automatic actuators. Independent, non-duplicative systems within this category count as separate redundant prevention measures.

(B) Documented routine inspection and maintenance programs and/or operator training (maintenance programs and operator training may count as only one redundant prevention measure).

(C) Inherently safer designs or safety instrumentation systems.

(D) Deluge systems.

(E) Staged relief system where the initial pressure relief device (with lower set release pressure) discharges to a flare or other closed vent system and control device.

(iii) If any affected pressure relief device releases to atmosphere as a result of a pressure release event, you must perform root cause analysis and corrective action analysis according to the requirement in paragraph (e)(6) of this section and implement corrective actions according to the requirements in paragraph (e)(7) of this section. You must also calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in § 63.2520(e)(15). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(iv) You must determine the total number of release events that occurred during the calendar year for each affected pressure relief device separately. You must also determine the total number of release events for each pressure relief device for which the root cause analysis concluded that the root cause was a *force majeure* event, as defined in § 63.2550.

(v) Except for pressure relief devices described in paragraphs (e)(4) and (5) of this section, the following release events from an affected pressure relief device are a deviation of the pressure release management work practice standards.

(A) Any release event for which the root cause of the event was determined to be operator error or poor maintenance.

(B) A second release event not including *force majeure* events from a single pressure relief device in a 3 calendar year period for the same root cause for the same equipment.

(C) A third release event not including *force majeure* events from a single pressure relief device in a 3 calendar year period for any reason.

(4) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* (i) If all releases and potential leaks from a pressure relief device are routed through a closed vent system to a control device, back into the process, to the fuel gas system, or to a drain system, then you are not required to comply with paragraph (e)(1), (2), or (3) of this section.

(ii) Before the compliance dates specified in § 63.2445(g), both the closed vent system and control device (if applicable) referenced in paragraph (e)(4)(i) of this section must meet the applicable requirements specified in § 63.982(b) and (c)(2) of subpart SS. Beginning no later than the compliance dates specified in § 63.2445(g), both the closed vent system and control device (if applicable) referenced in paragraph (e)(4)(i) of this section must meet the applicable requirements specified in §§ 63.982(c)(2), 63.983, and 63.2450(e)(4) through (6).

(iii) The drain system (if applicable) referenced in paragraph (e)(4)(i) must meet the applicable requirements specified in § 63.2485(e).

(5) *Pressure relief devices exempted from pressure release management requirements.* The following types of pressure relief devices are not subject to the pressure release management requirements in paragraph (e)(3) of this section.

(i) Pressure relief devices in heavy liquid service, as defined in § 63.1020 of subpart UU or § 65.103(f) of this chapter.

(ii) Thermal expansion relief valves.

(iii) Pressure relief devices on mobile equipment.

(iv) Pilot-operated pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(v) Balanced bellows pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(6) *Root cause analysis and corrective action analysis.* A root cause analysis and corrective action analysis must be completed as soon as possible, but no later than 45 days after a release event. Special circumstances affecting the number of root cause analyses and/or corrective action analyses are provided in paragraphs (e)(6)(i) through (iii) of this section.

(i) You may conduct a single root cause analysis and corrective action analysis for a single emergency event that causes two or more pressure relief devices installed on the same equipment to release.

(ii) You may conduct a single root cause analysis and corrective action analysis for a single emergency event that causes two or more pressure relief devices to release, regardless of the equipment served, if the root cause is reasonably expected to be a *force majeure* event, as defined in § 63.2550.

(iii) Except as provided in paragraphs (e)(6)(i) and (ii) of this section, if more than one pressure relief device has a release during the same time period, an initial root cause analysis must be conducted separately for each pressure relief device that had a release. If the initial root cause analysis indicates that the release events have the same root cause(s), the initially separate root cause analyses may be recorded as a single root cause analysis and a single corrective action analysis may be conducted.

(7) *Corrective action implementation.* You must conduct a root cause analysis and corrective action analysis as specified in paragraphs (e)(3)(iii) and (e)(6) of this section, and you must implement the corrective action(s) identified in the corrective action analysis in accordance with the applicable requirements in paragraphs (e)(7)(i) through (iii) of this section.

(i) All corrective action(s) must be implemented within 45 days of the event for which the root cause and corrective action analyses were required or as soon thereafter as practicable. If you conclude that no corrective action should be implemented, you must record and explain the basis for that conclusion no later than 45 days following the event.

(ii) For corrective actions that cannot be fully implemented within 45 days following the event for which the root cause and corrective action analyses were required, you must develop an implementation schedule to complete the corrective action(s) as soon as practicable.

(iii) No later than 45 days following the event for which a root cause and corrective action analyses were required, you must record the corrective action(s) completed to date, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(8) *Flowing pilot-operated pressure relief devices.* For affected sources that commenced construction or reconstruction on or before December 17, 2019, you are prohibited from installing a flowing pilot-operated pressure relief device or replacing any pressure relief device with a flowing pilot-operated pressure relief device after August 12, 2023. For affected sources that commenced construction or reconstruction after December 17, 2019, you are prohibited from installing and operating flowing pilot-operated pressure relief devices. For purpose of compliance with this paragraph (e)(8), a flowing pilot-operated pressure relief device means the type of pilot-operated pressure relief device where the pilot discharge vent continuously releases emissions to the atmosphere when the pressure relief device is actuated.

(f) Beginning no later than the compliance dates specified in § 63.2445(g), the referenced provisions specified in paragraphs (f)(1) through (18) of this section do not apply when demonstrating compliance with this section.

(1) Section 63.163(c)(3) of subpart H.

(2) Section 63.172(j)(3) of subpart H.

(3) The second sentence of § 63.181(d)(5)(i) of subpart H.

(4) The phrase "may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or" from § 63.1024(f)(4)(i) of subpart UU.

(5) Section 63.1026(b)(3) of subpart UU.

(6) The phrase "(except periods of startup, shutdown, or malfunction)" from § 63.1026(e)(1)(ii)(A) of subpart UU.

(7) The phrase "(except during periods of startup, shutdown, or malfunction)" from § 63.1028(e)(1)(i)(A) of subpart UU.

(8) The phrase "(except during periods of startup, shutdown, or malfunction)" from § 63.1031(b)(1) of subpart UU.

(9) The second sentence of § 65.105(f)(4)(i) of this chapter.

(10) Section 65.107(b)(3) of this chapter.

(11) The phrase "(except periods of start-up, shutdown, or malfunction)" from § 65.107(e)(1)(ii)(A) of this chapter.

(12) The phrase "(except during periods of start-up, shutdown, or malfunction)" from § 65.109(e)(1)(i)(A) of this chapter.

(13) The phrase "(except during periods of start-up, shutdown, or malfunction)" from § 65.112(b)(1) of this chapter.

(14) The last sentence of § 65.115(b)(1) of this chapter.

(15) The last sentence of § 65.115(b)(2) of this chapter.

(16) The phrase "Except for pressure relief devices needed for safety purposes, low leg drains, high point bleeds, analyzer vents, and open-ended valves or lines" in § 65.143(a)(3) of this chapter.

(17) For flares complying with § 63.2450(e)(5), the following provisions do not apply:

(i) Section 63.172(d) of subpart H;

(ii) Section 63.180(e) of subpart H;

(iii) Section 63.181(g)(1)(iii) of subpart H;

(iv) The phrase "including periods when a flare pilot light system does not have a flame" from § 63.181(g)(2)(i) of subpart H;

(v) Section 63.1034(b)(2)(iii) of subpart UU; and

(vi) Section 65.115(b)(2) of this chapter.

(18) For pressure relief devices complying with § 63.2480(e), the following provisions are modified as follows:

(i) In the introductory text of § 63.180(c), replace the reference to § 63.165(a) with § 63.2480(e)(1).

(ii) In § 63.181(b)(2)(i), replace the reference to § 63.165(c) with § 63.2480(e)(4).

(iii) In § 63.181(b)(2)(i), replace the reference to § 63.165(a) with § 63.2480(e)(1).

(iv) In § 63.181(b)(3)(ii), replace the reference to § 63.165(d) with § 63.2480(e)(2)(ii) and (iii).

(v) In § 63.181(f), replace the reference to § 63.165(a) and (b) with § 63.2480(e)(1) and (2).

(vi) The information required to be reported under § 63.182(d)(2)(xiv) is now required to be reported under § 63.2520(e)(15)(i) through (iii).

(vii) The reference to § 63.1030(b) in § 63.1021(a) no longer applies.

(viii) In § 63.1022(b)(2), replace the reference to § 63.1030(d) with § 63.2480(e)(4).

(ix) In § 63.1022(b)(3), replace the reference to § 63.1030(e) with § 63.2480(e)(2)(ii).

(x) The reference to § 63.1030(c) in § 63.1022(a)(1)(v) no longer applies. Instead comply with the § 63.2480(e)(1) and (2).

(xi) In § 63.1023(c) introductory text and (c)(4), replace the reference to § 63.1030(b) with § 63.2480(e)(1).

(xii) In § 63.1038(c) replace the reference to § 63.1030(c)(3) with § 63.2480(e)(2).

(xiii) The information required to be reported under § 63.1039(b)(4) is now required to be reported under § 63.2520(e)(15)(i) and (ii).

(xiv) The reference to § 65.111(b) of this chapter in § 65.102(a) of this chapter no longer applies.

(xv) In § 65.103(b)(3) of this chapter, replace the reference to § 65.111(d) with § 63.2480(e)(4).

(xvi) In § 65.103(b)(4) of this chapter, replace the reference to § 63.111(e) with § 63.2480(e)(2)(ii).

(xvii) The reference to § 65.111(b) and (c) of this chapter in § 65.104(a)(1)(iv) of this chapter no longer applies. Instead comply with § 63.2480(e)(1) and (2).

(xviii) In § 65.104(c) introductory text and (c)(4) of this chapter, replace the reference to § 63.111(b) with § 63.2480(e)(1).

(xix) In § 65.119(c)(5) of this chapter, replace the reference to § 65.111(c)(3) with § 63.2480(e)(2) and replace the reference to § 65.111(e) with § 63.2480(e)(2)(ii) and (iii).

(xx) The information required to be reported under § 65.120(b)(4) of this chapter is now required to be reported under § 63.2520(e)(15)(i) and (ii).

■ 12. Section 63.2485 is amended by:
■ a. Revising paragraphs (a) and (f);
■ b. Adding paragraph (h)(4);
■ c. Revising paragraph (i)(2)(ii);
■ d. Adding paragraph (i)(2)(iii);
■ e. Revising paragraphs (k), the first sentence of (n)(2) introductory text, and (n)(2)(ii) and (n)(2)(iv)(A);
■ f. Adding paragraph (n)(2)(vii);
■ g. Revising paragraphs (n)(4) and (o); and
■ h. Adding paragraphs (p) and (q).

The revisions and additions read as follows:

§ 63.2485 What requirements must I meet for wastewater streams and liquid streams in open systems within an MCPU?

(a) *General.* You must meet each requirement in Table 7 to this subpart that applies to your wastewater streams and liquid streams in open systems within an MCPU, except as specified in paragraphs (b) through (q) of this section.

* * * * *

(f) *Closed-vent system requirements.* Except as specified in § 63.2450(e)(6), when § 63.148(k) refers to closed vent systems that are subject to the requirements of § 63.172, the requirements of either § 63.172 or § 63.1034 apply for the purposes of this subpart.

* * * * *

(h) * * *

(4) As an alternative to using EPA Method 624 of 40 CFR part 136, appendix A, as specified in § 63.144(b)(5)(i)(C), you may use ASTM D5790–95 (Reapproved 2012) (incorporated by reference, see § 63.14) for the analysis of total organic HAP in wastewater samples. If you choose to use ASTM D5790–95 (Reapproved 2012), then you must also use the sampling procedures of EPA Method 25D 40 CFR part 60, appendix A–7, or an equivalent method.

(i) * * *

(2) * * *

(ii) The transferee must treat the wastewater stream or residual in a biological treatment unit in accordance with the requirement in paragraph (i)(2)(iii) of this section and the requirements of §§ 63.138 and 63.145 and the requirements referenced therein.

(iii) Beginning no later than the compliance dates specified in § 63.2445(g), the requirement of § 63.145(a)(3) no longer applies. Instead, the transferee must comply with the conditions specified in § 63.2450(g)(6).

* * * * *

(k) *Outlet concentration correction for supplemental gases.* The requirement to correct outlet concentrations from combustion devices to 3-percent oxygen in §§ 63.139(c)(1)(ii) and 63.145(i)(6) applies only if supplemental gases are combined with a vent stream from a Group 1 wastewater stream. If emissions are controlled with a vapor recovery system as specified in § 63.139(c)(2), you must correct for supplemental gases as specified in § 63.2460(c)(6).

* * * * *

(n) * * *

(2) Calculate the destruction efficiency of the biological treatment unit using Equation 1 to this paragraph (n)(2) in accordance with the procedures described in paragraphs (n)(2)(i) through (viii) of this section. * * *

* * * * *

(ii) Except as specified in paragraph (n)(2)(vii) of this section, conduct the demonstration under representative process unit and treatment unit operating conditions in accordance with § 63.145(a)(3) and (4).

* * * * *

(iv) * * *

(A) If the biological treatment process meets both of the requirements specified in § 63.145(h)(1)(i) and (ii), you may elect to replace the F_{bio} term in Equation 1 to paragraph (n)(2) of this section with the numeral "1."

* * * * *

(vii) Beginning no later than the compliance dates specified in § 63.2445(g), the requirement of § 63.145(a)(3) no longer applies. Instead, you must comply with the conditions specified in § 63.2450(g)(6).

* * * * *

(4) For any wastewater streams that are Group 1 for both PSHAP and SHAP, you may elect to meet the requirements specified in Table 7 to this subpart for the PSHAP and then comply with paragraphs (n)(1) through (3) of this section for the SHAP in the wastewater system. You may determine the SHAP mass removal rate, in kg/hr, in treatment units that are used to meet the requirements for PSHAP and add this amount to both the numerator and denominator in Equation 1 to paragraph (n)(2) of this section.

(o) *Compliance records.* Except as specified in paragraph (p) of this section, for each CPMS used to monitor a nonflare control device for wastewater emissions, you must keep records as specified in § 63.998(c)(1) in addition to the records required in § 63.147(d).

(p) *Compliance records after date of compliance.* Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (o) of this section no longer applies. Instead, for each CPMS used to monitor a nonflare control device for wastewater emissions, you must keep records as specified in § 63.998(c)(1) in addition to the records required in § 63.147(d), except that the provisions of § 63.998(c)(1)(ii)(D), (E), (F), and (G) do not apply.

(q) *Startup, shutdown, and malfunction referenced provisions.* Beginning no later than the compliance dates specified in § 63.2445(g), the referenced provisions specified in paragraphs (q)(1) through (5) of this section do not apply when demonstrating compliance with this section.

(1) Section 63.105(d) of subpart F and the phrase "as part of the start-up, shutdown, and malfunction plan required under § 63.6(e)(3) of subpart A of this part" from § 63.105(e) of subpart F.

(2) Section 63.132(b)(3)(i)(B) of subpart G.

(3) The phrase "or startup/shutdown/malfunction" in § 63.132(f)(2) of subpart G.

(4) Section 63.148(f)(3) of subpart G.

(5) For flares complying with § 63.2450(e)(5), the following provisions do not apply:

(i) Section 63.139(c)(3) of subpart G;

(ii) Section 63.139(d)(3) of subpart G;

(iii) Section 63.145(j) of subpart G;

(iv) Section 63.146(b)(7)(i) of subpart G; and

(v) Section 63.147(d)(1) of subpart G.

■ 13. Section 63.2490 is revised to read as follows:

§ 63.2490 What requirements must I meet for heat exchange systems?

(a) You must comply with each requirement in Table 10 to this subpart that applies to your heat exchange systems, except as specified in paragraphs (b) through (d) of this section.

(b) Except as specified in paragraph (d) of this section, if you comply with the requirements of § 63.104 as specified in Table 10 to this subpart, then the phrase "a chemical manufacturing process unit meeting the conditions of § 63.100 (b)(1) through (b)(3) of this subpart" in § 63.104(a) means "an MCPU meeting the conditions of § 63.2435" for the purposes of this subpart.

(c) Except as specified in paragraph (d) of this section, if you comply with the requirements of § 63.104 as specified in Table 10 to this subpart, then the reference to "§ 63.100(c)" in § 63.104(a) does not apply for the purposes of this subpart.

(d) Unless one or more of the conditions specified in § 63.104(a)(1), (2), (5), and (6) are met, beginning no later than the compliance dates specified in § 63.2445(g), the requirements of § 63.104 as specified in Table 10 to this subpart and paragraphs (b) and (c) of this section no longer apply. Instead, you must monitor the cooling water for the presence of total strippable hydrocarbons that indicate a leak according to paragraph (d)(1) of this section, and if you detect a leak, then you must repair it according to paragraphs (d)(2) and (3) of this section, unless repair is delayed according to paragraph (d)(4) of this section. At any time before the compliance dates specified in § 63.2445(g), you may choose to comply with the requirements in this paragraph (d) in lieu of the requirements of § 63.104 as specified in Table 10 to this subpart and paragraphs (b) and (c) of this section. The requirements in this paragraph (d) do not apply to heat exchange systems that have a maximum cooling water flow rate of 10 gallons per minute or less.

(1) You must perform monitoring to identify leaks of total strippable hydrocarbons from each heat exchange system subject to the requirements of this subpart according to the procedures in paragraphs (d)(1)(i) through (v) of this section.

(i) *Monitoring locations for closed-loop recirculation heat exchange systems.* For each closed loop recirculating heat exchange system, you must collect and analyze a sample from the location(s) described in either paragraph (d)(1)(i)(A) or (B) of this section.

(A) Each cooling tower return line or any representative riser within the cooling tower prior to exposure to air for each heat exchange system.

(B) Selected heat exchanger exit line(s), so that each heat exchanger or group of heat exchangers within a heat exchange system is covered by the selected monitoring location(s).

(ii) *Monitoring locations for once-through heat exchange systems.* For each once-through heat exchange system, you must collect and analyze a sample from the location(s) described in paragraph (d)(1)(ii)(A) of this section. You may also elect to collect and analyze an additional sample from the location(s) described in paragraph (d)(1)(ii)(B) of this section.

(A) Selected heat exchanger exit line(s), so that each heat exchanger or group of heat exchangers within a heat exchange system is covered by the selected monitoring location(s). The selected monitoring location may be at a point where discharges from multiple heat exchange systems are combined provided that the combined cooling water flow rate at the monitoring location does not exceed 40,000 gallons per minute.

(B) The inlet water feed line for a once-through heat exchange system prior to any heat exchanger. If multiple heat exchange systems use the same water feed (*i.e.,* inlet water from the same primary water source), you may monitor at one representative location and use the monitoring results for that sampling location for all heat exchange systems that use that same water feed.

(iii) *Monitoring method.* If you comply with the total strippable hydrocarbon concentration leak action level as specified in paragraph (d)(1)(iv) of this section, you must comply with the requirements in paragraph (d)(1)(iii)(A) of this section. If you comply with the total hydrocarbon mass emissions rate leak action level as specified in paragraph (d)(1)(iv) of this section, you must comply with the requirements in paragraphs (d)(1)(iii)(A) and (B) of this section.

(A) You must determine the total strippable hydrocarbon concentration (in parts per million by volume (ppmv) as methane) at each monitoring location using the "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference—see § 63.14) using a flame ionization detector (FID) analyzer for on-site determination as described in Section 6.1 of the Modified El Paso Method.

(B) You must convert the total strippable hydrocarbon concentration (in ppmv as methane) to a total hydrocarbon mass emissions rate (as methane) using the calculations in Section 7.0 of "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference—see § 63.14).

(iv) *Monitoring frequency and leak action level.* For each heat exchange system, you must initially monitor monthly for 6-months beginning upon startup and monitor quarterly thereafter using a leak action level defined as a total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, you may monitor quarterly using a leak action level defined as a total hydrocarbon mass emissions rate from the heat exchange system (as methane) of 0.18 kg/hr. If a leak is detected as specified in paragraph (d)(1)(v) of this section, then you must monitor monthly until the leak has been repaired according to the requirements in paragraph (d)(2) or (3) of this section. Once the leak has been repaired according to the requirements in paragraph (d)(2) or (3) of this section, quarterly monitoring for the heat exchange system may resume. The monitoring frequencies specified in this paragraph (d)(1)(iv) also apply to the inlet water feed line for a once-through heat exchange system, if monitoring of the inlet water feed is elected as provided in paragraph (d)(1)(ii)(B) of this section.

(v) *Leak definition.* A leak is defined as described in paragraph (d)(1)(v)(A) or (B) of this section, as applicable.

(A) For once-through heat exchange systems for which the inlet water feed is monitored as described in paragraph (d)(1)(ii)(B) of this section, a leak is detected if the difference in the measurement value of the sample taken from a location specified in paragraph

(d)(1)(ii)(A) of this section and the measurement value of the corresponding sample taken from the location specified in paragraph (d)(1)(ii)(B) of this section equals or exceeds the leak action level.

(B) For all other heat exchange systems, a leak is detected if a measurement value of the sample taken from a location specified in paragraph (d)(1)(i)(A) or (B) or (d)(1)(ii)(A) of this section equals or exceeds the leak action level.

(2) If a leak is detected using the methods described in paragraph (d)(1) of this section, you must repair the leak to reduce the concentration or mass emissions rate to below the applicable leak action level as soon as practicable, but no later than 45 days after identifying the leak, except as specified in paragraph (d)(4) of this section. Repair must include re-monitoring at the monitoring location where the leak was identified according to the method specified in paragraph (d)(1)(iii) of this section to verify that the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is below the applicable leak action level. Repair may also include performing the additional monitoring in paragraph (d)(3) of this section to verify that the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is below the applicable leak action level. Actions that can be taken to achieve repair include but are not limited to:

(i) Physical modifications to the leaking heat exchanger, such as welding the leak or replacing a tube;

(ii) Blocking the leaking tube within the heat exchanger;

(iii) Changing the pressure so that water flows into the process fluid;

(iv) Replacing the heat exchanger or heat exchanger bundle; or

(v) Isolating, bypassing, or otherwise removing the leaking heat exchanger from service until it is otherwise repaired.

(3) If you detect a leak when monitoring a cooling tower return line under paragraph (d)(1)(i)(A) of this section, you may conduct additional monitoring of each heat exchanger or group of heat exchangers associated with the heat exchange system for which the leak was detected, as provided in paragraph (d)(1)(i)(B) of this section. If no leaks are detected when monitoring according to the requirements of paragraph (d)(1)(i)(B) of this section, the heat exchange system is considered to have met the repair requirements through re-monitoring of the heat exchange system, as provided in paragraph (d)(2) of this section.

(4) You may delay repair when one of the conditions in paragraph (d)(4)(i) or (ii) of this section is met and the leak is less than the delay of repair action level specified in paragraph (d)(4)(iii) of this section. You must determine if a delay of repair is necessary as soon as practicable, but no later than 45 days after first identifying the leak.

(i) If the repair is technically infeasible without a shutdown and the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is initially and remains less than the delay of repair action level for all monitoring periods during the delay of repair, then you may delay repair until the next scheduled shutdown of the heat exchange system. If, during subsequent monitoring, the delay of repair action level is exceeded, then you must repair the leak within 30 days of the monitoring event in which the leak was equal to or exceeded the delay of repair action level.

(ii) If the necessary equipment, parts, or personnel are not available and the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate is initially and remains less than the delay of repair action level for all monitoring periods during the delay of repair, then you may delay the repair for a maximum of 120 calendar days. You must demonstrate that the necessary equipment, parts, or personnel were not available. If, during subsequent monitoring, the delay of repair action level is exceeded, then you must repair the leak within 30 days of the monitoring event in which the leak was equal to or exceeded the delay of repair action level.

(iii) The delay of repair action level is a total strippable hydrocarbon concentration (as methane) in the stripping gas of 62 ppmv or, for heat exchange systems with a recirculation rate of 10,000 gallons per minute or less, the delay of repair action level is a total hydrocarbon mass emissions rate (as methane) or 1.8 kg/hr. The delay of repair action level is assessed as described in paragraph (d)(4)(iii)(A) or (B) of this section, as applicable.

(A) For once-through heat exchange systems for which the inlet water feed is monitored as described in paragraph (d)(1)(ii)(B) of this section, the delay of repair action level is exceeded if the difference in the measurement value of the sample taken from a location specified in paragraph (d)(1)(ii)(A) of this section and the measurement value of the corresponding sample taken from the location specified in paragraph (d)(1)(ii)(B) of this section equals or exceeds the delay of repair action level.

(B) For all other heat exchange systems, the delay of repair action level is exceeded if a measurement value of the sample taken from a location specified in paragraph (d)(1)(i)(A) or (B) or (d)(1)(ii)(A) of this section equals or exceeds the delay of repair action level.

■ 14. Section 63.2492 is added to read as follows:

§ 63.2492 How do I determine whether my process vent, storage tank, or equipment is in ethylene oxide service?

To determine if process vents, storage tanks, and equipment leaks are in ethylene oxide service as defined in § 63.2550(i), you must comply with the requirements in paragraphs (a) through (c) of this section, as applicable.

(a) For each batch process vent or continuous process vent stream, you must measure the flow rate and concentration of ethylene oxide of each process vent as specified in paragraphs (a)(1) through (5) of this section.

(1) Measurements must be made prior to any dilution of the vent streams.

(2) Measurements may be made on the combined vent streams at an MCPU or for each separate vent stream.

(3) Method 1 or 1A of 40 CFR part 60, appendix A–1, as appropriate, must be used for the selection of the sampling sites. For vents smaller than 0.10 meter in diameter, sample at one point at the center of the duct.

(4) The gas volumetric flow rate must be determined using Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendices A–1 and A–2, as appropriate.

(5) The concentration of ethylene oxide must be determined using Method 18 of 40 CFR part 60, appendix A–6, or Method 320 of appendix A to this part.

(b) For storage tanks, you must measure the concentration of ethylene oxide of the fluid stored in the storage tanks using Method 624.1 of 40 CFR part 136, appendix A, or preparation by Method 5031 and analysis by Method 8260D (both incorporated by reference, see § 63.14) in the SW–846 Compendium. In lieu of preparation by SW–846 Method 5031, you may use SW–846 Method 5030B (incorporated by reference, see § 63.14), as long as: You do not use a preservative in the collected sample; you store the sample with minimal headspace as cold as possible and at least below 4 degrees C; and you analyze the sample as soon as possible, but in no case longer than 7 days from the time the sample was collected. If you are collecting a sample from a pressure vessel, you must maintain the sample under pressure both during and following sampling.

(c) For equipment leaks, you must comply with the requirements in paragraphs (c)(1) through (4) of this section.

(1) Each piece of equipment within an MCPU that can reasonably be expected to contain equipment in ethylene oxide service is presumed to be in ethylene oxide service unless you demonstrate that the piece of equipment is not in ethylene oxide service. For a piece of equipment to be considered not in ethylene oxide service, it must be determined that the percent ethylene oxide content of the process fluid that is contained in or contacts equipment can be reasonably expected to not exceed 0.1 percent by weight on an annual average basis. For purposes of determining the percent ethylene oxide content of the process fluid, you must use Method 18 of 40 CFR part 60, appendix A–6, for gaseous process fluid, and Method 624.1 of 40 CFR part 136, appendix A, or preparation by Method 5031 and analysis by Method 8260D (both incorporated by reference, see § 63.14) in the SW–846 Compendium for liquid process fluid. In lieu of preparation by SW–846 Method 5031, you may use SW–846 Method 5030B (incorporated by reference, see § 63.14), as long as: You do not use a preservative in the collected sample; you store the sample with minimal headspace as cold as possible and at least below 4 degrees C; and you analyze the sample as soon as possible, but in no case longer than 7 days from the time the sample was collected.

(2) Unless specified by the Administrator, you may use good engineering judgment rather than the procedures specified in paragraph (c)(1) of this section to determine that the percent ethylene oxide content of the process fluid that is contained in or contacts equipment does not exceed 0.1 percent by weight.

(3) You may revise your determination for whether a piece of equipment is in ethylene oxide service by following the procedures in paragraph (c)(1) of this section, or by documenting that a change in the process or raw materials no longer causes the equipment to be in ethylene oxide service.

(4) Samples used in determining the ethylene oxide content must be representative of the process fluid that is contained in or contacts the equipment.

■ 15. Section 63.2493 is added to read as follows:

§ 63.2493 What requirements must I meet for process vents, storage tanks, or equipment that are in ethylene oxide service?

This section applies beginning no later than the compliance dates specified in § 63.2445(i). In order to demonstrate compliance with the emission limits and work practice standards specified in Tables 1, 2, and 4 to this subpart for process vents and storage tanks in ethylene oxide service, you must meet the requirements specified in paragraphs (a) through (c) of this section. In order to demonstrate compliance with the requirements specified in Table 6 to this subpart for equipment in ethylene oxide service, you must meet the requirements specified in paragraphs (d) and (e) of this section.

(a) *Initial compliance.* For initial compliance, you must comply with paragraphs (a)(1) through (4) of this section, as applicable.

(1) If you choose to reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a flare as specified in Table 1, 2, or 4 to this subpart, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must conduct the initial visible emissions demonstration required by § 63.670(h) of subpart CC as specified in § 63.2450(e)(5).

(2) If you choose to reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a non-flare control device that reduces ethylene oxide by greater than or equal to 99.9 percent by weight as specified in Table 1, 2, or 4 to this subpart, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must comply with paragraphs (a)(2)(i) through (viii) of this section.

(i) Conduct an initial performance test of the control device that is used to comply with the percent reduction requirement at the inlet and outlet of the control device. For purposes of compliance with this paragraph (a)(2), you may not use a design evaluation.

(ii) Conduct the performance test according to the procedures in §§ 63.997 and 63.2450(g). Use Method 18 of 40 CFR part 60, appendix A–6, or Method 320 of appendix A to this part to determine the ethylene oxide concentration. Use Method 1 or 1A of 40 CFR part 60, appendix A–1, to select the sampling sites at each sampling location. Determine the gas volumetric flowrate using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A–2. Use Method 4 of 40 CFR part 60, appendix A–3, to convert the volumetric flowrate to a dry basis.

(iii) Calculate the mass emission rate of ethylene oxide entering the control device and exiting the control device using Equations 1 and 2 to this paragraph (a)(2)(iii).

$$E_{EtO,inlet} = K\ C_{EtO,inlet}\ M_{EtO}\ Q_{inlet} \quad \text{(Eq. 1)}$$

$$E_{EtO,outlet} = K\ C_{EtO,outlet}\ M_{EtO}\ Q_{outlet} \quad \text{(Eq. 2)}$$

Where:

$E_{EtO,inlet}$, $E_{EtO,outlet}$ = Mass rate of ethylene oxide at the inlet and outlet of the control device, respectively, kilogram per hour.

$C_{EtO,inlet}$, $C_{EtO,outlet}$ = Concentration of ethylene oxide in the gas stream at the inlet and outlet of the control device, respectively, dry basis, parts per million by volume.

M_{EtO} = Molecular weight of ethylene oxide, 44.05 grams per gram-mole.

Q_{inlet}, Q_{outlet} = Flow rate of the gas stream at the inlet and outlet of the control device, respectively, dry standard cubic meter per minute.

K = Constant, $2.494 \times 10-6$ (parts per million) − 1 (gram-mole per standard cubic meter) (kilogram per gram) (minutes per hour), where standard temperature (gram-mole per standard cubic meter) is 20 °C.

(iv) Calculate the percent reduction from the control device using Equation 3 to this paragraph (a)(2)(iv). You have demonstrated initial compliance if the overall reduction of ethylene oxide is greater than or equal to 99.9 percent by weight.

$$\text{Percent reduction} = (E_{EtO,inlet} - E_{EtO,outlet})/E_{EtO,inlet} * 100 \quad \text{(Eq. 3)}$$

Where:

$E_{EtO,inlet}$, $E_{EtO,outlet}$ = Mass rate of ethylene oxide at the inlet and outlet of the control device, respectively, kilogram per hour, calculated using Equations 1 and 2 to paragraph (a)(2)(iii) of this section.

(v) If a new control device is installed, then conduct a performance test of the new device following the procedures in paragraphs (a)(2)(i) through (iv) of this section.

(vi) If you vent emissions through a closed-vent system to a scrubber, then you must establish operating parameter limits by monitoring the operating parameters specified in paragraphs (a)(2)(vi)(A) through (C) of this section during the performance test.

(A) Scrubber liquid-to-gas ratio (L/G), determined from the total scrubber liquid inlet flow rate and the exit gas flow rate. Determine the average L/G during the performance test as the average of the test run averages.

(B) Scrubber liquid pH of the liquid in the reactant tank. The pH may be measured at any point between the discharge from the scrubber column and the inlet to the reactant tank. Determine the average pH during the performance test as the average of the test run averages.

(C) Temperature of the water entering the scrubber column. The temperature may be measured at any point after the heat exchanger and prior to entering the top of the scrubber column. Determine the average inlet water temperature as the average of the test run averages.

(vii) If you vent emissions through a closed-vent system to a thermal oxidizer, then you must establish operating parameter limits by monitoring the operating parameters specified in paragraphs (a)(2)(vii)(A) and (B) of this section during the performance test.

(A) Combustion chamber temperature. Determine the average combustion chamber temperature during the performance test as the average of the test run averages.

(B) Flue gas flow rate. Determine the average flue gas flow rate during the performance test as the average of the test run averages.

(viii) If you vent emissions through a closed-vent system to a control device other than a flare, scrubber, or thermal oxidizer, then you must notify the Administrator of the operating parameters that you plan to monitor during the performance test prior to establishing operating parameter limits for the control device.

(3) If you choose to reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a non-flare control device that reduces ethylene oxide to less than 1 ppmv as specified in Table 1, 2, or 4 to this subpart, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must comply with either paragraph (a)(3)(i) or (ii) of this section.

(i) Install an FTIR CEMS meeting the requirements of Performance Specification 15 of 40 CFR part 60, appendix B, to continuously monitor the ethylene oxide concentration at the exit of the control device. Comply with the requirements specified in § 63.2450(j) for your CEMS.

(ii) If you do not install a CEMS under paragraph (a)(3)(i) of this section, you must comply with paragraphs (a)(3)(ii)(A) through (C) of this section.

(A) Conduct an initial performance test of the control device that is used to comply with the concentration requirement at the outlet of the control device.

(B) Conduct the performance test according to the procedures in §§ 63.997 and 63.2450(g). Use Method 18 of 40 CFR part 60, appendix A–6, or Method 320 of appendix A to this part to determine the ethylene oxide concentration. You have demonstrated initial compliance if the ethylene oxide concentration is less than 1 ppmv.

(C) Comply with the requirements specified in paragraphs (a)(2)(v) through (viii) of this section, as applicable.

(4) If you choose to reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a non-flare control device that reduces ethylene oxide to less than 5 pounds per year for all combined process vents as specified in Table 1 or 2 to this subpart, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must comply with paragraphs (a)(4)(i) through (iv) of this section.

(i) Conduct an initial performance test of the control device that is used to comply with the mass emission limit requirement at the outlet of the control device.

(ii) Conduct the performance test according to the procedures in §§ 63.997 and 63.2450(g). Use Method 18 of 40 CFR part 60, appendix A–6, or Method 320 of appendix A to this part to determine the ethylene oxide concentration. Use Method 1 or 1A of 40 CFR part 60, appendix A–1, to select the sampling site. Determine the gas volumetric flowrate using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A–2. Use Method 4 of 40 CFR part 60, appendix A–3, to convert the volumetric flowrate to a dry basis.

(iii) Calculate the mass emission rate of ethylene oxide exiting the control device using Equation 2 to paragraph (a)(2)(iii) of this section. You have demonstrated initial compliance if the ethylene oxide from all process vents (controlled and uncontrolled) is less than 5 pounds per year when combined.

(iv) Comply with the requirements specified in paragraphs (a)(2)(v) through (viii) of this section, as applicable.

(b) *Continuous compliance.* For continuous compliance, you must comply with paragraphs (b)(1) through (6) of this section, as applicable.

(1) If you choose to reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a flare as specified in Table 1, 2, or 4 to this subpart, then you must comply with the requirements in §§ 63.983 and 63.2450(e)(4) through (6).

(2) Continuously monitor the ethylene oxide concentration at the exit of the control device using an FTIR CEMS meeting the requirements of Performance Specification 15 of 40 CFR part 60, appendix B, and § 63.2450(j). If you use an FTIR CEMS, you do not need to conduct the performance testing required in paragraph (b)(3) of this section or the operating parameter monitoring required in paragraphs (b)(4) through (6) of this section.

(3) Conduct a performance test no later than 60 months after the previous performance test and reestablish operating parameter limits following the procedures in paragraph (a)(2) through (4) of this section. The Administrator may request a repeat performance test at any time. For purposes of compliance with this paragraph (b)(3), you may not use a design evaluation.

(4) If you vent emissions through a closed-vent system to a scrubber, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must meet the operating parameter limits specified in paragraphs (b)(4)(i) through (v) of this section.

(i) Minimum scrubber liquid-to-gas ratio (L/G), equal to the average L/G measured during the most recent performance test. Determine total scrubber liquid inlet flow rate with a flow sensor with a minimum accuracy of at least ±5 percent over the normal range of flow measured, or 1.9 liters per minute (0.5 gallons per minute), whichever is greater. Determine exit gas flow rate with a flow sensor with a minimum accuracy of at least ±5 percent over the normal range of flow measured, or 280 liters per minute (10 cubic feet per minute), whichever is greater. Compliance with the minimum L/G operating limit must be determined continuously on a 1-hour block basis.

(ii) Maximum scrubber liquid pH of the liquid in the reactant tank, equal to the average pH measured during the most recent performance test. Compliance with the pH operating limit must be determined continuously on a 1-hour block basis. Use a pH sensor with a minimum accuracy of ±0.2 pH units.

(iii) Pressure drop across the scrubber column, within the pressure drop range specified by the manufacturer or established based on engineering analysis. Compliance with the pressure drop operating limit must be determined continuously on a 1-hour block basis. Use pressure sensors with a minimum accuracy of ±5 percent over the normal operating range or 0.12 kilopascals, whichever is greater.

(iv) Maximum temperature of the water entering the scrubber column, equal to the average temperature measured during the most recent performance test. Compliance with the inlet water temperature operating limit must be determined continuously on a 1-hour block basis. Use a temperature sensor with a minimum accuracy of ±1 percent over the normal range of the temperature measured, expressed in

degrees Celsius, or 2.8 degrees Celsius, whichever is greater.

(v) Liquid feed pressure to the scrubber column within the feed pressure range specified by the manufacturer or established based on engineering analysis. Compliance with the liquid feed pressure operating limit must be determined continuously on a 1-hour block basis. Use a pressure sensor with a minimum accuracy of ±5 percent over the normal operating range or 0.12 kilopascals, whichever is greater.

(5) If you vent emissions through a closed-vent system to a thermal oxidizer, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must meet the operating parameter limits specified in paragraphs (b)(5)(i) and (ii) of this section and the requirements in paragraph (b)(5)(iii) of this section.

(i) Minimum combustion chamber temperature, equal to the average combustion chamber temperature measured during the most recent performance test. Determine combustion chamber temperature with a temperature sensor with a minimum accuracy of at least ±1 percent over the normal range of temperature measured, expressed in degrees Celsius, or 2.8 degrees Celsius, whichever is greater. Compliance with the minimum combustion chamber temperature operating limit must be determined continuously on a 1-hour block basis.

(ii) Maximum flue gas flow rate, equal to the average flue gas flow rate measured during the most recent performance test. Determine flue gas flow rate with a flow sensor with a minimum accuracy of at least ±5 percent over the normal range of flow measured, or 280 liters per minute (10 cubic feet per minute), whichever is greater. Compliance with the maximum flue gas flow rate operating limit must be determined continuously on a 1-hour block basis.

(iii) You must maintain the thermal oxidizer in accordance with good combustion practices that ensure proper combustion. Good combustion practices include, but are not limited to, proper burner maintenance, proper burner alignment, proper fuel to air distribution and mixing, routine inspection, and preventative maintenance.

(6) If you vent emissions through a closed-vent system to a control device other than a flare, scrubber, or thermal oxidizer, then you must comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983, and you must monitor the operating parameters identified in paragraph (a)(2)(viii) of this section and meet the established operating parameter limits to ensure continuous compliance. The frequency of monitoring and averaging time will be determined based upon the information provided to the Administrator.

(c) *Pressure vessels.* If you have a storage tank in ethylene oxide service that is considered a pressure vessel as defined in as defined in § 63.2550(i), then you must operate and maintain the pressure vessel, as specified in paragraphs (c)(1) through (5) of this section.

(1) The pressure vessel must be designed to operate with no detectable emissions at all times.

(2) Monitor each point on the pressure vessel through which ethylene oxide could potentially be emitted by conducting initial and annual performance tests using Method 21 of 40 CFR part 60, appendix A–7.

(3) Each instrument reading greater than 500 ppmv is a deviation.

(4) Estimate the flow rate and total regulated material emissions from the defect. Assume the pressure vessel has been emitting for half of the time since the last performance test, unless other information supports a different assumption.

(5) Whenever ethylene oxide is in the pressure vessel, you must operate the pressure vessel as a closed system that vents through a closed vent system to a control device as specified in paragraphs (c)(5)(i) through (iii) of this section, as applicable.

(i) For closed vent systems, comply with § 63.2450(e)(4) and (6) and the requirements in § 63.983.

(ii) For a non-flare control device, comply with requirements as specified in paragraph (b) of this section.

(iii) For a flare, comply with the requirements of § 63.2450(e)(5).

(d) *Equipment in ethylene oxide service.* Except as specified in paragraphs (d)(1) through (4) and (e) of this section, for equipment in ethylene oxide service as defined in § 63.2550(i), you must comply with the requirements of subpart UU or H of this part, or 40 CFR part 65, subpart F.

(1) For pumps in ethylene oxide service, you must comply with the requirements in paragraphs (d)(1)(i) through (iii) of this section.

(i) The instrument reading that defines a leak for pumps is 1,000 parts per million or greater.

(ii) The monitoring period for pumps is monthly.

(iii) When a leak is detected, it must be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

(2) For connectors in ethylene oxide service, you must comply with the requirements in paragraphs (d)(2)(i) through (iii) of this section.

(i) The instrument reading that defines a leak for connectors is 500 parts per million or greater.

(ii) The monitoring period for connectors is once every 12 months.

(iii) When a leak is detected, it must be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

(3) For each light liquid pump or connector in ethylene oxide service that is added to an affected source, and for each light liquid pump or connector in ethylene oxide service that replaces a light liquid pump or connector in ethylene oxide service, you must initially monitor for leaks within 5 days after initial startup of the equipment.

(4) Pressure relief devices in ethylene oxide service must comply with the requirements in § 63.2480(e) and (f), except as specified in paragraphs (d)(4)(i) through (v) of this section.

(i) The second sentence in § 63.2480(e)(3)(iv) does not apply.

(ii) Section 63.2480(e)(3)(v) does not apply.

(iii) Section 63.2480(e)(6)(ii) does not apply.

(iv) Any release event from an affected pressure relief device is a deviation of the pressure release management work practice standards.

(v) Replace all references to § 63.2445(g) with § 63.2445(h).

(e) *Non-applicable referenced provisions.* The referenced provisions specified in paragraphs (e)(1) through (15) of this section do not apply when demonstrating compliance with this section.

(1) Section 63.163(c)(3) of subpart H.

(2) Section 63.163(e) of subpart H.

(3) The second sentence of § 63.181(d)(5)(i) of subpart H.

(4) Section 63.1026(b)(3) of subpart UU.

(5) Section 63.1026(e) of subpart UU.

(6) The phrase "(except during periods of startup, shutdown, or malfunction)" from § 63.1028(e)(1)(i)(A) of subpart UU.

(7) The phrase "(except during periods of startup, shutdown, or malfunction)" from § 63.1031(b)(1) of subpart UU.

(8) The second sentence of § 65.105(f)(4)(i) of this chapter.

(9) Section 65.107(b)(3) of this chapter.

(10) Section 65.107(e) of this chapter.

(11) The phrase "(except during periods of start-up, shutdown, or malfunction)" from § 65.109(e)(1)(i)(A) of this chapter.

(12) The phrase "(except during periods of start-up, shutdown, or

malfunction)'' from § 65.112(b)(1) of this chapter.

(13) The last sentence of § 65.115(b)(1) of this chapter.

(14) The last sentence of § 65.115(b)(2) of this chapter.

(15) For flares complying with § 63.2450(e)(5), the following provisions do not apply:

(i) Section 63.172(d) of subpart H;

(ii) Section 63.180(e) of subpart H;

(iii) Section 63.181(g)(1)(iii) of subpart H;

(iv) The phrase ''including periods when a flare pilot light system does not have a flame'' from § 63.181(g)(2)(i) of subpart H;

(v) Section 63.1034(b)(2)(iii) of subpart H; and

(vi) Section 65.115(b)(2) of this chapter.

(16) Requirements for maintenance vents in § 63.2450(v).

■ 16. Section 63.2495 is amended by revising paragraph (b)(1) to read as follows:

§ 63.2495 How do I comply with the pollution prevention standard?

* * * * *

(b) * * *

(1) You must comply with the emission limitations and work practice standards contained in Tables 1 through 7 to this subpart for all HAP that are generated in the MCPU and that are not included in consumption, as defined in § 63.2550. If any vent stream routed to the combustion control is a halogenated vent stream, as defined in § 63.2550, then hydrogen halides that are generated as a result of combustion control must be controlled according to the requirements in § 63.2450(e)(4) and the requirements of § 63.994 and the requirements referenced therein.

* * * * *

■ 17. Section 63.2500 is amended by revising paragraph (a) and adding paragraph (g) to read as follows:

§ 63.2500 How do I comply with emissions averaging?

(a) For an existing source, you may elect to comply with the percent reduction emission limitations in Tables 1, 2, 4, 5, and 7 to this subpart by complying with the emissions averaging provisions specified in § 63.150, except as specified in paragraphs (b) through (g) of this section.

* * * * *

(g) Beginning no later than the compliance dates specified in § 63.2445(g), § 63.150(f)(2) does not apply when demonstrating compliance with this section.

■ 18. Section 63.2505 is amended by revising paragraphs (b)(1) and (b)(6)(i) and (ii) to read as follows:

§ 63.2505 How do I comply with the alternative standard?

* * * * *

(b) * * *

(1) You must comply with the requirements in § 63.2450(e)(4) and (6), and the requirements in § 63.983 and the requirements referenced therein for closed-vent systems, except if you are not reducing organic HAP emissions by venting emissions through a closed-vent system to any combination of control devices, including a flare or recovery device, you are not required to comply with the requirements in § 63.983(b)(1)(i)(A), (b)(1)(ii), (c), (d)(1)(ii), and (d)(2) and (3).

* * * * *

(6) * * *

(i) Demonstrate initial compliance with the 95-percent reduction by conducting a performance test and setting a site-specific operating limit(s) for the scrubber in accordance with the requirements in § 63.2450(e)(4) and the requirements of § 63.994 and the requirements referenced therein. You must submit the results of the initial compliance demonstration in the notification of compliance status report. If the performance test report is submitted electronically through the EPA's CEDRI in accordance with § 63.2520(f), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the notification of compliance status report in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the notification of compliance status report is submitted.

(ii) Install, operate, and maintain CPMS for the scrubber as specified in §§ 63.994(c) and 63.2450(k), instead of as specified in § 63.1258(b)(5)(i)(C). You must also comply with the requirements in § 63.2450(e)(4), as applicable.

* * * * *

■ 19. Section 63.2515 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 63.2515 What notifications must I submit and when?

(a) *General.* Except as specified in paragraph (d) of this section, you must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(e) and (f)(4) and (6), and 63.9(b) through (h) of subpart A that apply to you by the dates specified.

* * * * *

(d) *Supplement to Notification of Compliance Status.* You must also submit supplements to the Notification of Compliance Status as specified in § 63.2520(d)(3) through (5).

■ 20. Section 63.2520 is amended by:

■ a. Revising paragraphs (c) introductory text and (c)(2);

■ b. Adding paragraph (c)(8);

■ c. Revising paragraphs (d) introductory text and (d)(2)(ii);

■ d. Adding paragraphs (d)(3) through (5);

■ e. Revising paragraphs (e) introductory text, (e)(2) through (4), (e)(5)(ii) introductory text, and (e)(5)(ii)(A) and (B);

■ f. Adding paragraph (e)(5)(ii)(D);

■ g. Revising paragraphs (e)(5)(iii) introductory text and (e)(5)(iii)(A) through (F) and (I);

■ h. Adding paragraphs (e)(5)(iii)(M) and (N);

■ i. Revising paragraphs (e)(7), (8), and (9);

■ j. Revising paragraphs (e)(10) introductory text and (e)(10)(i); and

■ k. Adding paragraphs (e)(11) through (17) and (f) through (i).

The revisions and additions read as follows:

§ 63.2520 What reports must I submit and when?

* * * * *

(c) *Precompliance report.* You must submit a precompliance report to request approval for any of the items in paragraphs (c)(1) through (8) of this section. We will either approve or disapprove the report within 90 days after we receive it. If we disapprove the report, you must still be in compliance with the emission limitations and work practice standards in this subpart by the compliance date. To change any of the information submitted in the report, you must notify us 60 days before the planned change is to be implemented.

* * * * *

(2) Descriptions of daily or per batch demonstrations to verify that control devices subject to § 63.2450(k)(6) are operating as designed.

* * * * *

(8) For halogen reduction device other than a scrubber, procedures for establishing monitoring parameters as required by § 63.2450(e)(3)(ii).

(d) *Notification of compliance status report.* You must submit a notification of compliance status report according to the schedule in paragraph (d)(1) of this section, and the notification of compliance status report must contain the information specified in paragraphs (d)(2) through (5) of this section.

* * * * *

(2) * * *

(ii) The results of emissions profiles, performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate initial compliance according to §§ 63.2455 through 63.2485. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures. If the performance test report is submitted electronically through the EPA's CEDRI in accordance with paragraph (f) of this section, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the notification of compliance status report in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the notification of compliance status report is submitted.

* * * * *

(3) For flares subject to the requirements of § 63.2450(e)(5), you must also submit the information in this paragraph (d)(3) in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for flare monitoring. In lieu of the information required in § 63.987(b) of subpart SS, the supplement to the Notification of Compliance Status must include flare design (*e.g.,* steam-assisted, air-assisted, non-assisted, or pressure-assisted multi-point); all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the initial visible emissions demonstration required by § 63.670(h) of subpart CC, as applicable; and all periods during the compliance determination when the pilot flame or flare flame is absent.

(4) For pressure relief devices subject to the pressure release management work practice standards in § 63.2480(e)(3), you must also submit the information listed in paragraphs (d)(4)(i) and (ii) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

(i) A description of the monitoring system to be implemented, including the relief devices and process parameters to be monitored, and a description of the alarms or other methods by which operators will be notified of a pressure release.

(ii) A description of the prevention measures to be implemented for each affected pressure relief device.

(5) For process vents, storage tanks, and equipment leaks subject to the requirements of § 63.2493, you must also submit the information in this paragraph (d)(5) in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date. The supplement to the Notification of Compliance Status must identify all process vents, storage tanks, and equipment that are in ethylene oxide service as defined in § 63.2550, the method(s) used to control ethylene oxide emissions from each process vent and storage tank (*i.e.,* use of a flare, scrubber, or other control device), the method(s) used to control ethylene oxide emissions from equipment (*i.e.,* subpart UU or H of this part, or 40 CFR part 65, subpart F), and the information specified in paragraphs (d)(5)(i) through (iii) of this section.

(i) For process vents, include all uncontrolled, undiluted ethylene oxide concentration measurements, and the calculations you used to determine the total uncontrolled ethylene oxide mass emission rate for the sum of all vent gas streams.

(ii) For storage tanks, include the concentration of ethylene oxide of the fluid stored in each storage tank.

(iii) For equipment, include the percent ethylene oxide content of the process fluid and the method used to determine it.

(e) *Compliance report.* The compliance report must contain the information specified in paragraphs (e)(1) through (17) of this section. On and after August 12, 2023 or once the reporting template for this subpart has been available on the CEDRI website for 1 year, whichever date is later, you must submit all subsequent reports to the EPA via the CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports under §§ 63.9(i) and 63.10(a) of subpart A, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, CORE CBI Office, U.S. EPA Mailroom (C404–02), Attention: Miscellaneous Organic Chemical Manufacturing Sector Lead, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (e). All CBI claims must be asserted at the time of submission. Furthermore under CAA section 114(c) emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You may assert a claim of EPA system outage or *force majeure* for failure to timely comply with the reporting requirement in this paragraph (e) provided you meet the requirements outlined in paragraph (i) or (j) of this section, as applicable.

* * * * *

(2) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report. If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces the requirement in this paragrpah (e)(2).

(3) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

(4) For each SSM during which excess emissions occur, the compliance report must include records that the procedures specified in your startup, shutdown, and malfunction plan (SSMP) were followed or documentation of actions taken that are not consistent with the SSMP, and include a brief description of each malfunction. On and after August 12, 2023, this paragraph (e)(4) no longer

applies; however, for historical compliance purposes, a copy of the plan must be retained and available on-site for five years after August 12, 2023.

(5) * * *

(ii) For each deviation from an emission limit, operating limit, and work practice standard that occurs at an affected source where you are not using a continuous monitoring system (CMS) to comply with the emission limit or work practice standard in this subpart, you must include the information in paragraphs (e)(5)(ii)(A) through (D) of this section. This includes periods of SSM.

(A) The total operating time in hours of the affected source during the reporting period.

(B) Except as specified in paragraph (e)(5)(ii)(D) of this section, information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

* * * * *

(D) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (e)(5)(ii)(B) of this section no longer applies. Instead, report information for each deviation to meet an applicable standard. For each instance, report the start date, start time, and duration in hours of each deviation. For each deviation, the report must include a list of the affected sources or equipment, an estimate of the quantity in pounds of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the cause of the deviation (including unknown cause, if applicable), as applicable, and the corrective action taken.

(iii) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to comply with an emission limit in this subpart, you must include the information in paragraphs (e)(5)(iii)(A) through (N) of this section. This includes periods of SSM.

(A) The start date, start time, and duration in hours that each CMS was inoperative, except for zero (low-level) and high-level checks.

(B) The start date, start time, and duration in hours that each CEMS was out-of-control and a description of the corrective actions taken.

(C) Except as specified in paragraph (e)(5)(iii)(M) of this section, the date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(D) The total duration in hours of all deviations for each CMS during the reporting period, the total operating time in hours of the affected source during the reporting period, and the total duration as a percent of the total operating time of the affected source during that reporting period.

(E) Except as specified in paragraph (e)(5)(iii)(N) of this section, a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(F) The total duration in hours of CMS downtime for each CMS during the reporting period, and the total duration of CMS downtime as a percent of the total operating time of the affected source during that reporting period.

* * * * *

(I) The monitoring equipment manufacturer(s) and model number(s) and the pollutant or parameter monitored.

* * * * *

(M) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (e)(5)(iii)(C) of this section no longer applies. Instead, report the number of deviation to meet an applicable standard. For each instance, report the start date, start time and duration in hours of each deviation. For each deviation, the report must include a list of the affected sources or equipment, an estimate of the quantity in pounds of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of the deviation (including unknown cause, if applicable), as applicable, and the corrective action taken.

(N) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (e)(5)(iii)(E) of this section no longer applies. Instead, report a breakdown of the total duration in hours of the deviations during the reporting period into those that are due control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(7) Include each new operating scenario which has been operated since the time period covered by the last compliance report and has not been submitted in the notification of compliance status report or a previous compliance report. For each new operating scenario, you must report the information specified in § 63.2525(b) and provide verification that the operating conditions for any associated control or treatment device have not been exceeded and that any required calculations and engineering analyses have been performed. For the purposes of this paragraph (e)(7), a revised operating scenario for an existing process is considered to be a new operating scenario.

(8) For process units added to a PUG, you must report the description and rationale specified in § 63.2525(i)(4). You must report your primary product redeterminations specified in § 63.2525(i)(5).

(9) Except as specified in §§ 63.2450(e)(4), 63.2480(f), and 63.2485(p) and (q) and paragraph (t) of this section, applicable records and information for periodic reports as specified in referenced subparts F, G, H, SS, UU, WW, and GGG of this part and subpart F of 40 CFR part 65.

(10) Except as specified in paragraph (e)(10)(ii) of this section, whenever you make a process change, or change any of the information submitted in the notification of compliance status report or a previous compliance report, that is not within the scope of an existing operating scenario, you must document the change in your compliance report. A process change does not include moving within a range of conditions identified in the standard batch, and a nonstandard batch does not constitute a process change.

(i) The notification must include all of the information in paragraphs (e)(10)(i)(A) through (C) of this section.

(A) A description of the process change.

(B) Revisions to any of the information reported in the original notification of compliance status report under paragraph (d) of this section.

(C) Information required by the notification of compliance status report under paragraph (d) of this section for changes involving the addition of processes or equipment at the affected source.

(ii) You must submit a report 60 days before the scheduled implementation date of any of the changes identified in paragraph (e)(10)(ii)(A), (B), or (C) of this section.

(A) Any change to the information contained in the precompliance report.

(B) A change in the status of a control device from small to large.

(C) A change from Group 2 to Group 1 for any emission point except for batch process vents that meet the conditions specified in § 63.2460(b)(6)(i).

(11) For each flare subject to the requirements in § 63.2450(e)(5), the compliance report must include the items specified in paragraphs (e)(11)(i) through (vi) of this section in lieu of the

information required in § 63.999(c)(3) of subpart SS.

(i) Records as specified in § 63.2525(m)(1) for each 15-minute block during which there was at least one minute when regulated material is routed to a flare and no pilot flame or flare flame is present. Include the start and stop time and date of each 15-minute block.

(ii) Visible emission records as specified in § 63.2525(m)(2)(iv) for each period of 2 consecutive hours during which visible emissions exceeded a total of 5 minutes.

(iii) The periods specified in § 63.2525(m)(6). Indicate the date and start and end times for each period, and the net heating value operating parameter(s) determined following the methods in § 63.670(k) through (n) of subpart CC as applicable.

(iv) For flaring events meeting the criteria in §§ 63.670(o)(3) of subpart CC and 63.2450(e)(5)(v):

(A) The start and stop time and date of the flaring event.

(B) The length of time in minutes for which emissions were visible from the flare during the event.

(C) For steam-assisted, air-assisted, and non-assisted flares, the start date, start time, and duration in minutes for periods of time that the flare tip velocity exceeds the maximum flare tip velocity determined using the methods in § 63.670(d)(2) of subpart CC and the maximum 15-minute block average flare tip velocity in ft/sec recorded during the event.

(D) Results of the root cause and corrective actions analysis completed during the reporting period, including the corrective actions implemented during the reporting period and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(v) For pressure-assisted multi-point flares, the periods of time when the pressure monitor(s) on the main flare header show the burners operating outside the range of the manufacturer's specifications. Indicate the date and start and end times for each period.

(vi) For pressure-assisted multi-point flares, the periods of time when the staging valve position indicator monitoring system indicates a stage should not be in operation and is or when a stage should be in operation and is not. Indicate the date and start and end times for each period.

(12) For bypass lines subject to the requirements § 63.2450(e)(6), the compliance report must include the start date, start time, duration in hours, estimate of the volume of gas in standard cubic feet, the concentration of organic HAP in the gas in parts per million by volume and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours.

(13) For each nonregenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.2450(e)(7), you must report the date of each instance when breakthrough, as defined in § 63.2550(i), is detected between the first and second adsorber and the adsorber is not replaced according to § 63.2450(e)(7)(iii)(A).

(14) For any maintenance vent release exceeding the applicable limits in § 63.2450(v)(1), the compliance report must include the information specified in paragraphs (e)(14)(i) through (iv) of this section. For the purposes of this reporting requirement, if you comply with § 63.2450(v)(1)(iv) then you must report each venting event conducted under those provisions and include an explanation for each event as to why utilization of this alternative was required.

(i) Identification of the maintenance vent and the equipment served by the maintenance vent.

(ii) The date and time the maintenance vent was opened to the atmosphere.

(iii) The lower explosive limit in percent, vessel pressure in psig, or mass in pounds of VOC in the equipment, as applicable, at the start of atmospheric venting. If the 5 psig vessel pressure option in § 63.2450(v)(1)(ii) was used and active purging was initiated while the lower explosive limit was 10 percent or greater, also include the lower explosive limit of the vapors at the time active purging was initiated.

(iv) An estimate of the mass in pounds of organic HAP released during the entire atmospheric venting event.

(15) Compliance reports for pressure relief devices subject to the requirements § 63.2480(e) must include the information specified in paragraphs (e)(15)(i) through (iii) of this section.

(i) For pressure relief devices in organic HAP gas or vapor service, pursuant to § 63.2480(e)(1), report the instrument readings and dates for all readings of 500 ppmv or greater.

(ii) For pressure relief devices in organic HAP gas or vapor service subject to § 63.2480(e)(2), report the instrument readings and dates of instrument monitoring conducted.

(iii) For pressure relief devices in organic HAP service subject to § 63.2480(e)(3), report each pressure release to the atmosphere, including the start date, start time, and duration in minutes of the pressure release and an estimate of the mass quantity in pounds of each organic HAP released; the results of any root cause analysis and corrective action analysis completed during the reporting period, including the corrective actions implemented during the reporting period; and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(16) For each heat exchange system subject to § 63.2490(d), beginning no later than the compliance dates specified in § 63.2445(g), the reporting requirements of § 63.104(f)(2) no longer apply; instead, the compliance report must include the information specified in paragraphs (e)(16)(i) through (v) of this section.

(i) The number of heat exchange systems at the plant site subject to the monitoring requirements in § 63.2490(d) during the reporting period;

(ii) The number of heat exchange systems subject to the monitoring requirements in § 63.2490(d) at the plant site found to be leaking during the reporting period;

(iii) For each monitoring location where the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate was determined to be equal to or greater than the applicable leak definitions specified in § 63.2490(d)(1)(v) during the reporting period, identification of the monitoring location (*e.g.,* unique monitoring location or heat exchange system ID number), the measured total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate, the date the leak was first identified, and, if applicable, the date the source of the leak was identified;

(iv) For leaks that were repaired during the reporting period (including delayed repairs), identification of the monitoring location associated with the repaired leak, the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate measured during re-monitoring to verify repair, and the re-monitoring date (*i.e.,* the effective date of repair); and

(v) For each delayed repair, identification of the monitoring location associated with the leak for which repair is delayed, the date when the delay of repair began, the date the repair is expected to be completed (if the leak is not repaired during the reporting period), the total strippable hydrocarbon concentration or total hydrocarbon mass emissions rate and date of each monitoring event conducted on the

delayed repair during the reporting period, and an estimate in pounds of the potential total hydrocarbon emissions over the reporting period associated with the delayed repair.

(17) For process vents and storage tanks in ethylene oxide service subject to the requirements of § 63.2493, the compliance report must include:

(i) The periods specified in § 63.2525(s)(4). Indicate the date and start and end times for each period.

(ii) If you obtain an instrument reading greater than 500 ppmv of a leak when monitoring a pressure vessel in accordance with § 63.2493(c)(2), submit a copy of the records specified in § 63.2525(s)(5)(ii).

(iii) Reports for equipment subject to the requirements of § 63.2493 as specified in paragraph (e)(9) of this section.

(f) *Performance test reports.* Beginning no later than October 13, 2020, you must submit performance test reports in accordance with this paragraph (f). Unless otherwise specified in this subpart, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, CORE CBI Office, U.S. EPA Mailroom (C404–02), Attention: Group Leader, Measurement Policy Group, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(g) *CEMS relative accuracy test audit (RATA) Performance evaluation reports.* Beginning no later than October 13, 2020, you must start submitting CEMS RATA performance evaluation reports in accordance with this paragraph (g). Unless otherwise specified in this subpart, within 60 days after the date of completing each continuous monitoring system performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring RATA pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, CORE CBI Office, U.S. EPA Mailroom (C404–02), Attention: Group Leader, Measurement Policy Group, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (g)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(h) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first

knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met that reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) *Claims of force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of *force majeure* for failure to timely comply with that reporting requirement. To assert a claim of *force majeure,* you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this paragraph (i)(1), a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

■ 21. Section 63.2525 is amended by revising the introductory text and paragraphs (a), (e)(1)(ii), (f), (h), and (j) and adding paragraphs (l) through (u) to read as follows:

§ 63.2525 What records must I keep?

You must keep the records specified in paragraphs (a) through (t) of this section.

(a) Except as specified in §§ 63.2450(e)(4), 63.2480(f), and 63.2485(p) and (q) and paragraph (t) of this section, each applicable record required by subpart A of this part and in referenced subparts F, G, SS, UU, WW, and GGG of this part and in referenced subpart F of 40 CFR part 65.

* * * * *

(e) * * *

(1) * * *

(ii) You control the Group 2 batch process vents using a flare that meets the requirements of § 63.987 or § 63.2450(e)(5), as applicable.

* * * * *

(f) A record of each time a safety device is opened to avoid unsafe conditions in accordance with § 63.2450(p).

* * * * *

(h) Except as specified in paragraph (l) of this section, for each CEMS, you must keep records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

* * * * *

(j) In the SSMP required by § 63.6(e)(3) of subpart A, you are not required to include Group 2 emission points, unless those emission points are used in an emissions average. For equipment leaks, the SSMP requirement is limited to control devices and is optional for other equipment. On and after August 12, 2023, this paragraph (j) no longer applies.

* * * * *

(l) Beginning no later than the compliance dates specified in § 63.2445(g), paragraph (h) of this section no longer applies. Instead, for each deviation from an emission limit, operating limit, or work practice standard, you must keep a record of the information specified in paragraph (l)(1) through (3) of this section. The records shall be maintained as specified in § 63.10(b)(1) of subpart A.

(1) In the event that an affected unit does not meet an applicable standard, record the number of deviations. For each deviation record the date, time, and duration of each deviation.

(2) For each deviation from an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.2450(u) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(m) For each flare subject to the requirements in § 63.2450(e)(5), you must keep records specified in paragraphs (m)(1) through (14) of this section in lieu of the information required in § 63.998(a)(1) of subpart SS.

(1) Retain records of the output of the monitoring device used to detect the presence of a pilot flame or flare flame as required in § 63.670(b) of subpart CC and the presence of a pilot flame as required in § 63.2450(e)(5)(viii)(D) for a minimum of 2 years. Retain records of each 15-minute block during which there was at least one minute that no pilot flame or flare flame is present when regulated material is routed to a flare for a minimum of 5 years. For a pressure-assisted multi-point flare that uses cross-lighting, retain records of each 15-minute block during which there was at least one minute that no pilot flame is present on each stage when regulated material is routed to a flare for a minimum of 5 years. You may reduce the collected minute-by-minute data to a 15-minute block basis with an indication of whether there was at least one minute where no pilot flame or flare flame was present.

(2) Retain records of daily visible emissions observations as specified in paragraphs (m)(2)(i) through (iv) of this section, as applicable, for a minimum of 3 years.

(i) To determine when visible emissions observations are required, the record must identify all periods when regulated material is vented to the flare.

(ii) If visible emissions observations are performed using Method 22 of 40

CFR part 60, appendix A–7, then the record must identify whether the visible emissions observation was performed, the results of each observation, total duration of observed visible emissions, and whether it was a 5-minute or 2-hour observation. Record the date and start time of each visible emissions observation.

(iii) If a video surveillance camera is used pursuant to § 63.670(h)(2) of subpart CC, then the record must include all video surveillance images recorded, with time and date stamps.

(iv) For each 2 hour period for which visible emissions are observed for more than 5 minutes in 2 consecutive hours, then the record must include the date and start and end time of the 2 hour period and an estimate of the cumulative number of minutes in the 2 hour period for which emissions were visible.

(3) The 15-minute block average cumulative flows for flare vent gas and, if applicable, total steam, perimeter assist air, and premix assist air specified to be monitored under § 63.670(i) of subpart CC, along with the date and time interval for the 15-minute block. If multiple monitoring locations are used to determine cumulative vent gas flow, total steam, perimeter assist air, and premix assist air, then retain records of the 15-minute block average flows for each monitoring location for a minimum of 2 years, and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 5 years. If pressure and temperature monitoring is used, then retain records of the 15-minute block average temperature, pressure, and molecular weight of the flare vent gas or assist gas stream for each measurement location used to determine the 15-minute block average cumulative flows for a minimum of 2 years, and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 5 years.

(4) The flare vent gas compositions specified to be monitored under § 63.670(j) of subpart CC. Retain records of individual component concentrations from each compositional analysis for a minimum of 2 years. If an NHVvg analyzer is used, retain records of the 15-minute block average values for a minimum of 5 years.

(5) Each 15-minute block average operating parameter calculated following the methods specified in § 63.670(k) through (n) of subpart CC, as applicable.

(6) All periods during which operating values are outside of the applicable operating limits specified in §§ 63.670(d) through (f) of subpart CC and 63.2450(e)(5)(viii) when regulated material is being routed to the flare.

(7) All periods during which you do not perform flare monitoring according to the procedures in § 63.670(g) through (j) of subpart CC.

(8) For pressure-assisted multi-point flares, if a stage of burners on the flare uses cross-lighting, then a record of any changes made to the distance between burners.

(9) For pressure-assisted multi-point flares, all periods when the pressure monitor(s) on the main flare header show burners are operating outside the range of the manufacturer's specifications. Indicate the date and time for each period, the pressure measurement, the stage(s) and number of burners affected, and the range of manufacturer's specifications.

(10) For pressure-assisted multi-point flares, all periods when the staging valve position indicator monitoring system indicates a stage of the pressure-assisted multi-point flare should not be in operation and when a stage of the pressure-assisted multi-point flare should be in operation and is not. Indicate the date and time for each period, whether the stage was supposed to be open, but was closed or vice versa, and the stage(s) and number of burners affected.

(11) Records of periods when there is flow of vent gas to the flare, but when there is no flow of regulated material to the flare, including the start and stop time and dates of periods of no regulated material flow.

(12) Records when the flow of vent gas exceeds the smokeless capacity of the flare, including start and stop time and dates of the flaring event.

(13) Records of the root cause analysis and corrective action analysis conducted as required in §§ 63.670(o)(3) of subpart CC and 63.2450(e)(5)(v), including an identification of the affected flare, the date and duration of the event, a statement noting whether the event resulted from the same root cause(s) identified in a previous analysis and either a description of the recommended corrective action(s) or an explanation of why corrective action is not necessary under § 63.670(o)(5)(i) of subpart CC.

(14) For any corrective action analysis for which implementation of corrective actions are required in § 63.670(o)(5) of subpart CC, a description of the corrective action(s) completed within the first 45 days following the discharge and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(n) For each flow event from a bypass line subject to the requirements in § 63.2450(e)(6), you must maintain records sufficient to determine whether or not the detected flow included flow requiring control. For each flow event from a bypass line requiring control that is released either directly to the atmosphere or to a control device not meeting the requirements specified in Tables 1 through 7 to this subpart, you must include an estimate of the volume of gas, the concentration of organic HAP in the gas and the resulting emissions of organic HAP that bypassed the control device using process knowledge and engineering estimates.

(o) For each nonregenerative adsorber and regenerative adsorber that is regenerated offsite subject to the requirements in § 63.2450(e)(7), you must keep the applicable records specified in paragraphs (o)(1) through (4) of this section.

(1) Outlet HAP or TOC concentration for each adsorber bed measured during each performance test conducted.

(2) Daily outlet HAP or TOC concentration.

(3) Date and time you last replaced the adsorbent.

(4) If you conduct monitoring less frequently than daily as specified in § 63.2450(e)(7)(iii)(B), you must record the average life of the bed.

(p) For each maintenance vent opening subject to the requirements in § 63.2450(v), you must keep the applicable records specified in paragraphs (p)(1) through (5) of this section.

(1) You must maintain standard site procedures used to deinventory equipment for safety purposes (*e.g.,* hot work or vessel entry procedures) to document the procedures used to meet the requirements in § 63.2450(v). The current copy of the procedures must be retained and available on-site at all times. Previous versions of the standard site procedures, as applicable, must be retained for five years.

(2) If complying with the requirements of § 63.2450(v)(1)(i) and the lower explosive limit at the time of the vessel opening exceeds 10 percent, identification of the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and the lower explosive limit at the time of the vessel opening.

(3) If complying with the requirements of § 63.2450(v)(1)(ii) and either the vessel pressure at the time of the vessel opening exceeds 5 psig or the lower explosive limit at the time of the active purging was initiated exceeds 10 percent, identification of the

maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, the pressure of the vessel or equipment at the time of discharge to the atmosphere and, if applicable, the lower explosive limit of the vapors in the equipment when active purging was initiated.

(4) If complying with the requirements of § 63.2450(v)(1)(iii), records of the estimating procedures used to determine the total quantity of VOC in the equipment and the type and size limits of equipment that contain less than 50 pounds of VOC at the time of maintenance vent opening. For each maintenance vent opening that contains greater than 50 pounds of VOC for which the deinventory procedures specified in paragraph (p)(1) of this section are not followed or for which the equipment opened exceeds the type and size limits established in the records specified in this paragraph (p)(4), records that identify the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere.

(5) If complying with the requirements of § 63.2450(v)(1)(iv), identification of the maintenance vent, the process units or equipment associated with the maintenance vent, records documenting actions taken to comply with other applicable alternatives and why utilization of this alternative was required, the date of maintenance vent opening, the equipment pressure and lower explosive limit of the vapors in the equipment at the time of discharge, an indication of whether active purging was performed and the pressure of the equipment during the installation or removal of the blind if active purging was used, the duration the maintenance vent was open during the blind installation or removal process, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere for each applicable maintenance vent opening.

(q) For each pressure relief device subject to the pressure release management work practice standards in § 63.2480(e), you must keep the records specified in paragraphs (q)(1) through (3) of this section.

(1) Records of the prevention measures implemented as required in § 63.2480(e)(3)(ii).

(2) Records of the number of releases during each calendar year and the number of those releases for which the root cause was determined to be a *force majeure* event. Keep these records for the current calendar year and the past 5 calendar years.

(3) For each release to the atmosphere, you must keep the records specified in paragraphs (q)(3)(i) through (iv) of this section.

(i) The start and end time and date of each pressure release to the atmosphere.

(ii) Records of any data, assumptions, and calculations used to estimate of the mass quantity of each organic HAP released during the event.

(iii) Records of the root cause analysis and corrective action analysis conducted as required in § 63.2480(e)(3)(iii), including an identification of the affected facility, a statement noting whether the event resulted from the same root cause(s) identified in a previous analysis and either a description of the recommended corrective action(s) or an explanation of why corrective action is not necessary under § 63.2480(e)(7)(i).

(iv) For any corrective action analysis for which implementation of corrective actions are required in § 63.2480(e)(7), a description of the corrective action(s) completed within the first 45 days following the discharge and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(r) For each heat exchange system, beginning no later than the compliance dates specified in § 63.2445(g), the recordkeeping requirements of § 63.104(f)(1) no longer apply; instead, you must keep records in paragraphs (r)(1) through (4) of this section.

(1) Monitoring data required by § 63.2490(d) that indicate a leak, the date the leak was detected, or, if applicable, the basis for determining there is no leak.

(2) The dates of efforts to repair leaks.

(3) The method or procedures used to confirm repair of a leak and the date the repair was confirmed.

(4) Documentation of delay of repair as specified in paragraphs (r)(4)(i) through (iv) of this section.

(i) The reason(s) for delaying repair.

(ii) A schedule for completing the repair as soon as practical.

(iii) The date and concentration or mass emissions rate of the leak as first identified and the results of all subsequent monitoring events during the delay of repair.

(iv) An estimate of the potential total hydrocarbon emissions from the leaking heat exchange system or heat exchanger for each required delay of repair monitoring interval following the procedures in paragraphs (r)(4)(iv)(A) through (C) of this section.

(A) If you comply with the total strippable hydrocarbon concentration leak action level, as specified in § 63.2490(d)(1)(iv), you must calculate the mass emissions rate by complying with the requirements of § 63.2490(d)(1)(iii)(B) or by determining the mass flow rate of the cooling water at the monitoring location where the leak was detected. If the monitoring location is an individual cooling tower riser, determine the total cooling water mass flow rate to the cooling tower. Cooling water mass flow rates may be determined using direct measurement, pump curves, heat balance calculations, or other engineering methods. If you determine the mass flow rate of the cooling water, calculate the mass emissions rate by converting the stripping gas leak concentration (in ppmv as methane) to an equivalent liquid concentration, in parts per million by weight (ppmw), using equation 7–1 from "Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources" (incorporated by reference—see § 63.14) and multiply the equivalent liquid concentration by the mass flow rate of the cooling water.

(B) For delay of repair monitoring intervals prior to repair of the leak, calculate the potential total hydrocarbon emissions for the leaking heat exchange system or heat exchanger for the monitoring interval by multiplying the mass emissions rate, determined in § 63.2490(d)(1)(iii)(B) or paragraph (r)(4)(iv)(A) of this section, by the duration of the delay of repair monitoring interval. The duration of the delay of repair monitoring interval is the time period starting at midnight on the day of the previous monitoring event or at midnight on the day the repair would have had to be completed if the repair had not been delayed, whichever is later, and ending at midnight of the day the of the current monitoring event.

(C) For delay of repair monitoring intervals ending with a repaired leak, calculate the potential total hydrocarbon emissions for the leaking heat exchange system or heat exchanger for the final delay of repair monitoring interval by multiplying the duration of the final delay of repair monitoring interval by the mass emissions rate determined for the last monitoring event prior to the re-monitoring event used to verify the leak was repaired. The duration of the final delay of repair monitoring interval is the time period starting at midnight of the

day of the last monitoring event prior to re-monitoring to verify the leak was repaired and ending at the time of the re-monitoring event that verified that the leak was repaired.

(s) For process vents and storage tanks in ethylene oxide service subject to the requirements of § 63.2493, you must keep the records specified in paragraphs (s)(1) through (5) of this section in addition to those records specified in paragraph (a) of this section. Records for equipment in ethylene oxide service subject to the requirements of § 63.2493 are specified in paragraph (a) of this section.

(1) For process vents, include all uncontrolled, undiluted ethylene oxide concentration measurements, and the calculations you used to determine the total uncontrolled ethylene oxide mass emission rate for the sum of all vent gas streams.

(2) For storage tanks, records of the concentration of ethylene oxide of the fluid stored in each storage tank.

(3) For equipment, records of the percent ethylene oxide content of the process fluid and the method used to determine it.

(4) If you vent emissions through a closed-vent system to a non-flare control device, then you must keep records of all periods during which operating values are outside of the applicable operating limits specified in § 63.2493(b)(4) through (6) when regulated material is being routed to the non-flare control device. The record must specify the operating parameter, the applicable limit, and the highest (for maximum operating limits) or lowest (for minimum operating limits) value recorded during the period.

(5) For pressure vessels subject to § 63.2493(c), records as specified in paragraphs (s)(5)(i) through (iv) of this section.

(i) The date of each performance test conducted according to § 63.2493(c)(2).

(ii) The instrument reading of each performance test conducted according to § 63.2493(c)(2), including the following:

(A) Date each defect was detected.

(B) Date of the next performance test that shows the instrument reading is less than 500 ppmv.

(C) Start and end dates of each period after the date in paragraph (s)(5)(ii)(A) of this section when the pressure vessel was completely empty.

(D) Estimated emissions from each defect.

(t) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(u) Beginning no later than the compliance dates specified in § 63.2445(g), the referenced provisions specified in paragraphs (u)(1) through (8) of this section do not apply when demonstrating compliance with paragraph (a) of this section.

(1) Section 63.103(c)(2)(i) of subpart F.

(2) Section 63.103(c)(2)(ii) of subpart F.

(3) The phrase "start-up, shutdown and malfunction and" from § 63.103(c)(3) of subpart F.

(4) The phrase "other than startups, shutdowns, or malfunctions (*e.g.,* a temperature reading of − 200 °C on a boiler)," from § 63.152(g)(1)(i) of subpart G.

(5) The phrase "other than a startup, shutdown, or malfunction" from § 63.152(g)(1)(ii)(C) of subpart G.

(6) The phrase "other than startups, shutdowns, or malfunctions" from § 63.152(g)(1)(iii) of subpart G.

(7) The phrase "other than a startup, shutdown, or malfunction" from § 63.152(g)(2)(iii) of subpart G.

(8) Section 63.152(g)(2)(iv)(A) of subpart G.

■ 22. Section 63.2535 is amended by revising the introductory text and paragraphs (d) and (k) and adding paragraph (m) to read as follows:

§ 63.2535 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

For any equipment, emission stream, or wastewater stream not subject to § 63.2493 but subject to other provisions of both this subpart and another subpart, you may elect to comply only with the provisions as specified in paragraphs (a) through (l) of this section. You also must identify the subject equipment, emission stream, or wastewater stream, and the provisions with which you will comply, in your notification of compliance status report required by § 63.2520(d).

* * * * *

(d) *Compliance with subpart I, GGG, or MMM of this part.* After the compliance dates specified in § 63.2445, if you have an affected source with equipment subject to subpart I, GGG, or MMM of this part, you may elect to comply with the provisions of subpart H, GGG, or MMM of this part, respectively, for all such equipment, except the affirmative defense requirements in subparts GGG and MMM no longer apply.

* * * * *

(k) *Compliance with 40 CFR part 60, subpart VV or VVa, and 40 CFR part 61, subpart V.* Except as specified in paragraphs (k)(1) and (2) of this section, after the compliance date specified in § 63.2445, if you have an affected source with equipment that is also subject to the requirements of 40 CFR part 60, subpart VV or VVa, or 40 CFR part 61, subpart V, you may elect to apply this subpart to all such equipment. After the compliance date specified in § 63.2445, if you have an affected source with equipment to which this subpart does not apply, but which is subject to the requirements of 40 CFR part 60, subpart VV or VVa, or 40 CFR part 61, subpart V, you may elect to apply this subpart to all such equipment. If you elect either of the methods of compliance in this paragraph (k), you must consider all total organic compounds, minus methane and ethane, in such equipment for purposes of compliance with this subpart, as if they were organic HAP. Compliance with the provisions of this subpart, in the manner described in this paragraph (k), will constitute compliance with 40 CFR part 60, subpart VV or VVa, and 40 CFR part 61, subpart V, as applicable.

(1) The provision in § 63.2480(b)(4) does not apply to connectors in gas/vapor and light liquid service that are subject to monitoring under 40 CFR 60.482–11a if complying with the compliance option in this paragraph (k).

(2) Beginning no later than the compliance dates specified in § 63.2445(g), equipment that must be controlled according to this subpart and subpart VVa of 40 CFR part 60 is required only to comply with the equipment leak requirements of this subpart, except you must also comply with the calibration drift assessment requirements specified at 40 CFR 60.485a(b)(2) if they are required to do so in subpart VVa of 40 CFR part 60. When complying with the calibration drift assessment requirements at 40 CFR 60.485a(b)(2), the requirement at 40 CFR 60.486a(e)(8)(v) to record the instrument reading for each scale used applies.

* * * * *

(m) *Overlap of this subpart with other regulations for flares.* (1) Beginning no later than the compliance dates specified in § 63.2445(g), flares that control ethylene oxide emissions from affected sources in ethylene oxide service as defined in § 63.2550 or are used to control emissions from MCPUs that produce olefins and polyolefins, subject to the provisions of 40 CFR

60.18 or 63.11, and used as a control device for an emission point subject to the emission limits and work practice standards in Tables 1, 2, 4 or 5 to this subpart are required to comply only with the provisions specified in § 63.2450(e)(5). At any time before the compliance dates specified in § 63.2445(g), flares that are subject to the provisions of 40 CFR 60.18 or 63.11 and elect to comply with the requirements in § 63.2450(e)(5) are required to comply only with the provisions specified in this subpart. For purposes of compliance with this paragraph (m), "MCPUs that produces olefins or polyolefins" includes only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product. By-products and impurities as defined in § 63.101, as well as wastes and trace contaminants, are not considered products.

(2) Beginning no later than the compliance dates specified in § 63.2445(g), flares subject to § 63.987 and used as a control device for an emission point subject to the emission limits and work practice standards in Tables 1, 2, 4 or 5 to this subpart are only required to comply with § 63.2450(e)(5).

(3) Beginning no later than the compliance dates specified in § 63.2445(g), flares subject to the requirements in subpart CC of this part and used as a control device for an emission point subject to the emission limits and work practice standards in Tables 1, 2, 4 or 5 to this subpart are only required to comply with the flare requirements in subpart CC of this part. This paragraph (m)(3) does not apply to multi-point pressure assisted flares.

■ 23. Section 63.2545 is amended by revising paragraph (b) introductory text and adding paragraph (b)(5) to read as follows:

§ 63.2545 Who implements and enforces this subpart?

* * * * *

(b) In delegating implementation and enforcement authority of this subpart to a state, local, or tribal agency under subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the Administrator of U.S. EPA and are not delegated to the state, local, or tribal agency.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 24. Section 63.2550 is amended in paragraph (i) by:

■ a. Revising paragraphs (4) and (8) in the definition of "Batch process vent";

■ b. Adding, in alphabetical order, definitions for "Bench-scale process" and "Breakthrough";

■ c. Adding paragraphs (8), (9), (10), and (11) in the definition of "Continuous process vent";

■ d. Revising paragraph (3) in the definition of "Deviation";

■ e. Adding, in alphabetical order, definitions for "Force majeure," "Heat exchange system," "In ethylene oxide service," and "Loading rack";

■ f. Revising paragraph (6) in the definition of "Miscellaneous organic chemical manufacturing process"; and

■ g. Adding, in alphabetical order, definitions for "Pressure release," "Pressure relief device," "Pressure vessel," "Relief valve," and "Thermal expansion relief valve."

The revisions and additions read as follows:

§ 63.2550 What definitions apply to this subpart?

* * * * *

(i) * * *

Batch process vent * * *

(4) Gaseous streams routed to a fuel gas system(s) unless on and after August 12, 2023, the fuel gas system(s) supplies a flare of which 50 percent or more of the fuel gas burned in the flare is derived from an MCPU that has processes and/or equipment in ethylene oxide service, or produces olefins or polyolefins;

* * * * *

(8) Except for batch process vents in ethylene oxide service, emission streams from emission episodes that are undiluted and uncontrolled containing less than 50 ppmv HAP are not part of any batch process vent. A vent from a unit operation, or a vent from multiple unit operations that are manifolded together, from which total uncontrolled HAP emissions are less than 200 lb/yr is not a batch process vent; emissions for all emission episodes associated with the unit operation(s) must be included in the determination of the total mass emitted. The HAP concentration or mass emission rate may be determined using any of the following: Process knowledge that no HAP are present in the emission stream; an engineering assessment as discussed in § 63.1257(d)(2)(ii), except that you do not need to demonstrate that the equations in § 63.1257(d)(2)(i) do not apply, and the precompliance reporting requirements specified in § 63.1257(d)(2)(ii)(E) do not apply for the purposes of this demonstration; equations specified in § 63.1257(d)(2)(i), as applicable; test data using Method 18 of 40 CFR part 60, appendix A; or any other test method that has been validated according to the procedures in EPA Method 301 of appendix A to this part.

Bench-scale process means a process (other than a research and development facility) that is operated on a small scale, such as one capable of being located on a laboratory bench top. This bench-scale equipment will typically include reagent feed vessels, a small reactor and associated product separator, recovery and holding equipment. These processes are only capable of producing small quantities of product.

* * * * *

Breakthrough means the time when the level of HAP or TOC, measured at the outlet of the first bed, has been detected is at the highest concentration allowed to be discharged from the adsorber system and indicates that the adsorber bed should be replaced.

* * * * *

Continuous process vent * * *

(8) On and after August 12, 2023, § 63.107(h)(3) applies unless the fuel gas system supplies a flare of which 50 percent or more of the fuel gas burned in the flare is derived from an MCPU that has processes and/or equipment in ethylene oxide service, or produces olefins or polyolefins.

(9) On and after August 12, 2023, § 63.107(h)(9) no longer applies.

(10) On and after August 12, 2023, § 63.107(i) no longer applies. Instead, a process vent is the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream meets the criteria specified in this paragraph. The gas stream would meet the characteristics specified in § 63.107(b) through (g) of subpart F, but, for purposes of avoiding applicability, has been deliberately interrupted, temporarily liquefied, routed through any item of equipment for no process purpose, or disposed of in a flare that does not meet the criteria in § 63.11(b) of subpart A or § 63.2450(e)(5) as applicable, or an incinerator that does not reduce emissions of organic HAP by 98 percent or to a concentration of 20 parts per million by volume, whichever is less stringent.

(11) Section 63.107(d) does not apply to continuous process vents in ethylene oxide service.

* * * * *

Deviation * * *

(3) Before August 12, 2023, fails to meet any emission limit, operating limit, or work practice standard in this subpart during startup, shutdown, or

malfunction, regardless of whether or not such failure is permitted by this subpart. On and after August 12, 2023, this paragraph (3) no longer applies.

* * * * *

Force majeure event means a release of HAP, either directly to the atmosphere from a pressure relief device or discharged via a flare, that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the MCPU (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the miscellaneous organic chemical manufacturing process unit that impacts the miscellaneous organic chemical manufacturing process unit's ability to operate.

* * * * *

Heat exchange system means a device or collection of devices used to transfer heat from process fluids to water without intentional direct contact of the process fluid with the water (*i.e.,* non-contact heat exchanger) and to transport and/or cool the water in a closed-loop recirculation system (cooling tower system) or a once-through system (*e.g.,* river or pond water). For closed-loop recirculation systems, the heat exchange system consists of a cooling tower, all miscellaneous organic chemical manufacturing process unit heat exchangers that are in organic HAP service, as defined in this subpart, serviced by that cooling tower, and all water lines to and from these miscellaneous organic chemical manufacturing process unit heat exchangers. For once-through systems, the heat exchange system consists of all heat exchangers that are in organic HAP service, as defined in this subpart, servicing an individual miscellaneous organic chemical manufacturing process unit and all water lines to and from these heat exchangers. Sample coolers or pump seal coolers are not considered heat exchangers for the purpose of this definition and are not part of the heat exchange system. Intentional direct contact with process fluids results in the formation of a wastewater.

* * * * *

In ethylene oxide service means the following:

(1) For equipment leaks, any equipment that contains or contacts a fluid (liquid or gas) that is at least 0.1 percent by weight of ethylene oxide. If information exists that suggests ethylene oxide could be present in equipment, the equipment is considered to be "in ethylene oxide service" unless sampling and analysis is performed as specified in § 63.2492 to demonstrate that the equipment does not meet the definition of being "in ethylene oxide service". Examples of information that could suggest ethylene oxide could be present in equipment, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(2) For process vents, each batch and continuous process vent in a process that, when uncontrolled, contains a concentration of greater than or equal to 1 ppmv undiluted ethylene oxide, and when combined, the sum of all these process vents would emit uncontrolled ethylene oxide emissions greater than or equal to 5 lb/yr (2.27 kg/yr). If information exists that suggests ethylene oxide could be present in a batch or continuous process vent, then the batch or continuous process vent is considered to be "in ethylene oxide service" unless an analysis is performed as specified in § 63.2492 to demonstrate that the batch or continuous process vent does not meet the definition of being "in ethylene oxide service". Examples of information that could suggest ethylene oxide could be present in a batch or continuous process vent, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

(3) For storage tanks, storage tanks of any capacity and vapor pressure storing a liquid that is at least 0.1 percent by weight of ethylene oxide. If knowledge exists that suggests ethylene oxide could be present in a storage tank, then the storage tank is considered to be "in ethylene oxide service" unless sampling and analysis is performed as specified in § 63.2492 to demonstrate that the storage tank does not meet the definition of being "in ethylene oxide service". The exemptions for "vessels storing organic liquids that contain HAP only as impurities" and "pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere" listed in the definition of "storage tank" in this section do not apply for storage tanks that may be in ethylene oxide service. Examples of information that could suggest ethylene oxide could be present in a storage tank, include calculations based on safety data sheets, material balances, process stoichiometry, or previous test results provided the results are still relevant to the current operating conditions.

* * * * *

Loading rack means a single system used to fill tank trucks and railcars at a single geographic site. Loading equipment and operations that are physically separate (*i.e.,* do not share common piping, valves, and other equipment) are considered to be separate loading racks.

* * * * *

Miscellaneous organic chemical manufacturing process * * *

(6) The end of a process that produces a solid material is either up to and including the dryer or extruder, or for a polymer production process without a dryer or extruder, it is up to and including the die plate or solid-state reactor, except in two cases. If the dryer, extruder, die plate, or solid-state reactor is followed by an operation that is designed and operated to remove HAP solvent or residual HAP monomer from the solid, then the solvent removal operation is the last step in the process. If the dried solid is diluted or mixed with a HAP-based solvent, then the solvent removal operation is the last step in the process.

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device means a valve, rupture disk, or similar device used only to release an unplanned, nonroutine discharge of gas from process equipment in order to avoid safety hazards or equipment damage. A pressure relief device discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause. Such devices include conventional, spring-actuated relief valves, balanced bellows relief valves, pilot-operated relief valves, rupture disks, and breaking, buckling, or shearing pin devices. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

Pressure vessel means a storage vessel that is used to store liquids or gases and is designed not to vent to the atmosphere as a result of compression of the vapor headspace in the pressure vessel during filling of the pressure vessel to its design capacity.

* * * * *

Relief valve means a type of pressure relief device that is designed to re-close after the pressure relief.

* * * * *

Thermal expansion relief valve means a pressure relief valve designed to protect equipment from excess pressure due to thermal expansion of blocked liquid-filled equipment or piping due to ambient heating or heat from a heat tracing system. Pressure relief valves designed to protect equipment from excess pressure due to blockage against a pump or compressor or due to fire contingency are not thermal expansion relief valves.

* * * * *

■ 25. Table 1 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2455, you must meet each emission limit and work practice standard in the following table that applies to your continuous process vents:

TABLE 1 TO SUBPART FFFF OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR CONTINUOUS PROCESS VENTS

For each . . .	For which . . .	Then you must . . .
1. Group 1 continuous process vent	a. Not applicable	i. Reduce emissions of total organic HAP by ≥98 percent by weight or to an outlet process concentration ≤20 ppmv as organic HAP or TOC by venting emissions through a closed-vent system to any combination of control devices (except a flare); or ii. Reduce emissions of total organic HAP by venting emissions through a closed vent system to a flare; or iii. Use a recovery device to maintain the TRE above 1.9 for an existing source or above 5.0 for a new source.
2. Halogenated Group 1 continuous process vent stream.	a. You use a combustion control device to control organic HAP emissions.	i. Use a halogen reduction device after the combustion device to reduce emissions of hydrogen halide and halogen HAP by ≥99 percent by weight, or to ≤0.45 kg/hr, or to ≤20 ppmv; or ii. Use a halogen reduction device before the combustion device to reduce the halogen atom mass emission rate to ≤0.45 kg/hr or to a concentration ≤20 ppmv.
3. Group 2 continuous process vent at an existing source.	You use a recovery device to maintain the TRE level >1.9 but ≤5.0.	Comply with the requirements in § 63.2450(e)(4) and the requirements in § 63.993 and the requirements referenced therein.
4. Group 2 continuous process vent at a new source.	You use a recovery device to maintain the TRE level >5.0 but ≤8.0.	Comply with the requirements in § 63.2450(e)(4) and the requirements in § 63.993 and the requirements referenced therein.
5. Continuous process vent	Beginning no later than the compliance dates specified in § 63.2445(i), the continuous process vent contains ethylene oxide such that it is considered to be in ethylene oxide service as defined in § 63.2550.	Comply with the applicable emission limits specified in items 1 through 4 of this Table, and also: i. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a flare; or ii. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a control device that reduces ethylene oxide by ≥99.9 percent by weight, or to a concentration <1 ppmv for each process vent or to <5 pounds per year for all combined process vents.

■ 26. Table 2 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2460, you must meet each emission limit and work practice standard in the following table that applies to your batch process vents:

TABLE 2 TO SUBPART FFFF OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR BATCH PROCESS VENTS

For each . . .	Then you must . . .	And you must . . .
1. Process with Group 1 batch process vents.	a. Reduce collective uncontrolled organic HAP emissions from the sum of all batch process vents within the process by ≥98 percent by weight by venting emissions from a sufficient number of the vents through one or more closed-vent systems to any combination of control devices (except a flare); or	Not applicable.
	b. Reduce collective uncontrolled organic HAP emissions from the sum of all batch process vents within the process by ≥95 percent by weight by venting emissions from a sufficient number of the vents through one or more closed-vent systems to any combination of recovery devices or a biofilter, except you may elect to comply with the requirements of subpart WW of this part for any process tank; or	Not applicable.

TABLE 2 TO SUBPART FFFF OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR BATCH PROCESS VENTS—Continued

For each . . .	Then you must . . .	And you must . . .
	c. Reduce uncontrolled organic HAP emissions from one or more batch process vents within the process by venting through a closed-vent system to a flare or by venting through one or more closed-vent systems to any combination of control devices (excluding a flare) that reduce organic HAP to an outlet concentration ≤20 ppmv as TOC or total organic HAP.	For all other batch process vents within the process, reduce collective organic HAP emissions as specified in item 1.a and/or item 1.b of this Table.
2. Halogenated Group 1 batch process vent for which you use a combustion device to control organic HAP emissions.	a. Use a halogen reduction device after the combustion control device; or	i. Reduce overall emissions of hydrogen halide and halogen HAP by ≥99 percent; or ii. Reduce overall emissions of hydrogen halide and halogen HAP to ≤0.45 kg/hr; or iii. Reduce overall emissions of hydrogen halide and halogen HAP to a concentration ≤20 ppmv.
	b. Use a halogen reduction device before the combustion control device.	Reduce the halogen atom mass emission rate to ≤0.45 kg/hr or to a concentration ≤20 ppmv.
3. Batch process vent that contains ethylene oxide such that it is considered to be in ethylene oxide service as defined in § 63.2550.	Beginning no later than the compliance dates specified in § 63.2445(i), comply with the applicable emission limits specified in items 1 and 2 of this Table, and also: i. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a flare; or ii. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a control device that reduces ethylene oxide by ≥99.9 percent by weight, or to a concentration <1 ppmv for each process vent or to <5 pounds per year for all combined process vents.	Not applicable.

■ 27. Table 4 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2470, you must meet each emission limit in the following table that applies to your storage tanks:

TABLE 4 TO SUBPART FFFF OF PART 63—EMISSION LIMITS FOR STORAGE TANKS

For each . . .	For which . . .	Then you must . . .
1. Group 1 storage tank	a. The maximum true vapor pressure of total HAP at the storage temperature is ≥76.6 kilopascals.	i. Reduce total HAP emissions by ≥95 percent by weight or to ≤20 ppmv of TOC or organic HAP and ≤20 ppmv of hydrogen halide and halogen HAP by venting emissions through a closed vent system to any combination of control devices (excluding a flare); or ii. Reduce total organic HAP emissions by venting emissions through a closed vent system to a flare; or iii. Comply with the requirements in § 63.2450(e)(4), as applicable; and reduce total HAP emissions by venting emissions to a fuel gas system or process in accordance with § 63.982(d) and the requirements referenced therein.[1]
	b. The maximum true vapor pressure of total HAP at the storage temperature is <76.6 kilopascals.	i. Comply with the requirements of subpart WW of this part, except as specified in § 63.2470; or ii. Reduce total HAP emissions by ≥95 percent by weight or to ≤20 ppmv of TOC or organic HAP and ≤20 ppmv of hydrogen halide and halogen HAP by venting emissions through a closed vent system to any combination of control devices (excluding a flare); or iii. Reduce total organic HAP emissions by venting emissions through a closed vent system to a flare; or iv. Comply with the requirements in § 63.2450(e)(4), as applicable; and reduce total HAP emissions by venting emissions to a fuel gas system or process in accordance with § 63.982(d) and the requirements referenced therein.[1]
2. Halogenated vent stream from a Group 1 storage tank.	You use a combustion control device to control organic HAP emissions.	Meet one of the emission limit options specified in Item 2.a.i or ii. in Table 1 to this subpart.

TABLE 4 TO SUBPART FFFF OF PART 63—EMISSION LIMITS FOR STORAGE TANKS—Continued

For each . . .	For which . . .	Then you must . . .
3. Storage tank of any capacity and vapor pressure.	Beginning no later than the compliance dates specified in § 63.2445(i), the stored liquid contains ethylene oxide such that the storage tank is considered to be in ethylene oxide service as defined in § 63.2550.	Comply with the applicable emission limits specified in items 1 and 2 of this Table, and also: i. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a flare; or ii. Reduce emissions of ethylene oxide by venting emissions through a closed-vent system to a control device that reduces ethylene oxide by ≥99.9 percent by weight, or to a concentration <1 ppmv for each storage tank vent.

[1] Beginning no later than the compliance dates specified in § 63.2445(g), any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from an MCPU that has processes and/or equipment in ethylene oxide service or that produces olefins or polyolefins, as determined on an annual average basis, must be in compliance with § 63.2450(e)(5). For purposes of compliance, an MCPU that "produces olefins or polyolefins" includes only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product. By-products and impurities as defined in § 63.101, as well as wastes and trace contaminants, are not considered products.

■ 28. Table 5 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2475, you must meet each emission limit and work practice standard in the following table that applies to your transfer racks:

TABLE 5 TO SUBPART FFFF OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR TRANSFER RACKS

For each . . .	You must . . .
1. Group 1 transfer rack	a. Reduce emissions of total organic HAP by ≥98 percent by weight or to an outlet concentration ≤20 ppmv as organic HAP or TOC by venting emissions through a closed-vent system to any combination of control devices (except a flare); or b. Reduce emissions of total organic HAP by venting emissions through a closed-vent system to a flare; or c. Comply with the requirements in § 63.2450(e)(4), as applicable; and reduce emissions of total organic HAP by venting emissions to a fuel gas system or process in accordance with § 63.982(d) and the requirements referenced therein;[1] or d. Use a vapor balancing system designed and operated to collect organic HAP vapors displaced from tank trucks and railcars during loading and route the collected HAP vapors to the storage tank from which the liquid being loaded originated or to another storage tank connected by a common header.
2. Halogenated Group 1 transfer rack vent stream for which you use a combustion device to control organic HAP emissions.	a. Use a halogen reduction device after the combustion device to reduce emissions of hydrogen halide and halogen HAP by ≥99 percent by weight, to ≤0.45 kg/hr, or to ≤20 ppmv; or b. Use a halogen reduction device before the combustion device to reduce the halogen atom mass emission rate to ≤0.45 kg/hr or to a concentration ≤20 ppmv.

[1] Beginning no later than the compliance dates specified in § 63.2445(g), any flare using fuel gas from a fuel gas system, of which 50 percent or more of the fuel gas is derived from an MCPU that has processes and/or equipment in ethylene oxide service or that produces olefins or polyolefins, as determined on an annual average basis, must be in compliance with § 63.2450(e)(5). For purposes of compliance, an MCPU that "produces olefins or polyolefins" includes only those MCPUs that manufacture ethylene, propylene, polyethylene, and/or polypropylene as a product. By-products and impurities as defined in § 63.101, as well as wastes and trace contaminants, are not considered products.

■ 29. Table 6 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2480, you must meet each requirement in the following table that applies to your equipment leaks:

TABLE 6 TO SUBPART FFFF OF PART 63—REQUIREMENTS FOR EQUIPMENT LEAKS

For all . . .	And that is part of . . .	You must . . .
1. Equipment that is in organic HAP service.	a. Any MCPU	i. Comply with the requirements of subpart UU of this part and the requirements referenced therein, except as specified in § 63.2480(b) and (d) through (f); or ii. Comply with the requirements of subpart H of this part and the requirements referenced therein, except as specified in § 63.2480(b) and (d) through (f); or iii. Comply with the requirements of 40 CFR part 65, subpart F, and the requirements referenced therein, except as specified in § 63.2480(c), and (d) through (f).
2. Equipment that is in organic HAP service at a new source.	a. Any MCPU	i. Comply with the requirements of subpart UU of this part and the requirements referenced therein, except as specified in § 63.2480(b)(6) and (7), (e), and (f); or ii. Comply with the requirements of 40 CFR part 65, subpart F, except as specified in § 63.2480(c)(10) and (11), (e), and (f).
3. Equipment that is in ethylene oxide service as defined in § 63.2550.	a. Any MCPU	i. Beginning no later than the compliance dates specified in § 63.2445(i), comply with the requirements of subpart UU of this part and the requirements referenced therein, except as specified in § 63.2493(d) and (e); or

TABLE 6 TO SUBPART FFFF OF PART 63—REQUIREMENTS FOR EQUIPMENT LEAKS—Continued

For all . . .	And that is part of . . .	You must . . .
		ii. Beginning no later than the compliance dates specified in § 63.2445(i), comply with the requirements of subpart H of this part and the requirements referenced therein, except as specified in § 63.2493(d) and (e); iii. Beginning no later than the compliance dates specified in § 63.2445(i), comply with the requirements of 40 CFR part 65, subpart F, and the requirements referenced therein, except as specified in § 63.2493(d) and (e).

■ 30. Table 10 to subpart FFFF of part 63 is revised to read as follows:

As required in § 63.2490, you must meet each requirement in the following table that applies to your heat exchange systems:

TABLE 10 TO SUBPART FFFF OF PART 63—WORK PRACTICE STANDARDS FOR HEAT EXCHANGE SYSTEMS

For each . . .	You must . . .
Heat exchange system, as defined in § 63.101	a. Comply with the requirements of § 63.104 and the requirements referenced therein, except as specified in § 63.2490(b) and (c); or b. Comply with the requirements in § 63.2490(d).

■ 31. Table 12 to subpart FFFF of part 63 is revised to read as follows:

As specified in § 63.2540, the parts of the general provisions that apply to you are shown in the following table:

TABLE 12 TO SUBPART FFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF

Citation	Subject	Explanation
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities	Yes.
§ 63.5	Construction/Reconstruction	Yes.
§ 63.6(a)	Applicability	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources	Yes.
§ 63.6(b)(5)	Notification	Yes.
§ 63.6(b)(6)	[Reserved]	
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Yes.
§ 63.6(c)(3)–(4)	[Reserved]	
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Yes.
§ 63.6(d)	[Reserved]	
§ 63.6(e)(1)(i)	Operation & Maintenance	Yes, before August 12, 2023. No, beginning on and after August 12, 2023. See § 63.2450(u) for general duty requirement.
§ 63.6(e)(1)(ii)	Operation & Maintenance	Yes, before August 12, 2023. No, beginning on and after August 12, 2023.
§ 63.6(e)(1)(iii)	Operation & Maintenance	Yes.
§ 63.6(e)(2)	[Reserved]	
§ 63.6(e)(3)(i), (iii), and (v) through (viii).	Startup, Shutdown, Malfunction Plan (SSMP)	Yes, before August 12, 2023, except information regarding Group 2 emission points and equipment leaks is not required in the SSMP, as specified in § 63.2525(j). No, beginning on and after August 12, 2023.
§ 63.6(e)(3)(iii) and (iv)	Recordkeeping and Reporting During SSM	No, see § 63.2525 for recordkeeping requirements and § 63.2520(e)(4) for reporting requirements.
§ 63.6(e)(3)(ix)	SSMP incorporation into title V permit	Yes, before August 12, 2023. No beginning on and after August 12, 2023.
§ 63.6(f)(1)	Compliance With Non-Opacity Standards Except During SSM.	No. See § 63.2445(g) through (i).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Yes.
§ 63.6(h)(1)	Compliance with Opacity Standards Except During SSM.	No. See § 63.2445(g) through (i).

TABLE 12 TO SUBPART FFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF—Continued

Citation	Subject	Explanation
§ 63.6(h)(2)–(9)	Opacity/Visible Emission (VE) Standards	Only for flares for which Method 22 of 40 CFR part 60, appendix A–7, observations are required as part of a flare compliance assessment.
§ 63.6(i)(1)–(14), and (16)	Compliance Extension	Yes.
§ 63.6(j)	Presidential Compliance Exemption	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Yes, except substitute 150 days for 180 days.
§ 63.7(a)(3)	Section 114 Authority	Yes, and this paragraph also applies to flare compliance assessments as specified under § 63.997(b)(2).
§ 63.7(a)(4)	Force Majeure	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Yes, except the test plan must be submitted with the notification of the performance test if the control device controls batch process vents.
§ 63.7(d)	Testing Facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests	Yes, before August 12, 2023 except that performance tests for batch process vents must be conducted under worst-case conditions as specified in § 63.2460. No, beginning on and after August 12, 2023. See § 63.2450(g)(6).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests	Yes.
§ 63.7(e)(3)	Test Run Duration	Yes.
§ 63.7(e)(4)	Administrator's Authority to Require Testing	Yes.
§ 63.7(f)	Alternative Test Method	Yes.
§ 63.7(g)	Performance Test Data Analysis	Yes, except this subpart specifies how and when the performance test and performance evaluation results are reported.
§ 63.7(h)	Waiver of Tests	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Yes.
§ 63.8(a)(2)	Performance Specifications	Yes.
§ 63.8(a)(3)	[Reserved]	
§ 63.8(a)(4)	Monitoring with Flares	Yes, except for flares subject to § 63.2450(e)(5).
§ 63.8(b)(1)	Monitoring	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Yes, before August 12, 2023. No, beginning on and after August 12, 2023.
§ 63.8(c)(1)(ii)	CMS malfunction not in SSM plan	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	Yes, before August 12, 2023. No, beginning on and after August 12, 2023.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.
§ 63.8(c)(4)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subparts G and SS of this part. Requirements for COMS do not apply because this subpart does not require continuous opacity monitoring systems (COMS).
§ 63.8(c)(4)(i)	COMS Measurement and Recording Frequency	No; this subpart does not require COMS.
§ 63.8(c)(4)(ii)	CEMS Measurement and Recording Frequency	Yes.
§ 63.8(c)(5)	COMS Minimum Procedures	No. This subpart does not contain opacity or VE limits.
§ 63.8(c)(6)	CMS Requirements	Only for CEMS; requirements for CPMS are specified in referenced subparts G and SS of this part. Requirements for COMS do not apply because this subpart does not require COMS.
§ 63.8(c)(7)–(8)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subparts G and SS of this part. Requirements for COMS do not apply because this subpart does not require COMS.
§ 63.8(d)(1)	CMS Quality Control	Only for CEMS.
§ 63.8(d)(2)	CMS Quality Control	Only for CEMS.
§ 63.8(d)(3)	CMS Quality Control	Yes, only for CEMS before August 12, 2023. No, beginning on and after August 12, 2023. See § 63.2450(j)(6).
§ 63.8(e)	CMS Performance Evaluation	Only for CEMS, except this subpart specifies how and when the performance evaluation results are reported. Section 63.8(e)(5)(ii) does not apply because this subpart does not require COMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes, except you may also request approval using the precompliance report.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Only applicable when using CEMS to demonstrate compliance, including the alternative standard in § 63.2505.

TABLE 12 TO SUBPART FFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF—Continued

Citation	Subject	Explanation
§ 63.8(g)(1)–(4)	Data Reduction	Only when using CEMS, including for the alternative standard in § 63.2505, except that the requirements for COMS do not apply because this subpart has no opacity or VE limits, and § 63.8(g)(2) does not apply because data reduction requirements for CEMS are specified in § 63.2450(j).
§ 63.8(g)(5)	Data Reduction	No. Requirements for CEMS are specified in § 63.2450(j). Requirements for CPMS are specified in referenced subparts G and SS of this part.
§ 63.9(a)	Notification Requirements	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Yes.
§ 63.9(c)	Request for Compliance Extension	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	Yes.
§ 63.9(e)	Notification of Performance Test	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	No.
§ 63.9(g)	Additional Notifications When Using CMS	Only for CEMS. Section 63.9(g)(2) does not apply because this subpart does not require COMS.
63.9(h)(1)–(6)	Notification of Compliance Status	Yes, except § 63.9(h)(2)(i)(A) through (G) and (h)(2)(ii) do not apply because § 63.2520(d) specifies the required contents and due date of the notification of compliance status report.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.
§ 63.9(j)	Change in Previous Information	No, § 63.2520(e) specifies reporting requirements for process changes.
§ 63.10(a)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(2)(i)	Records related to startup and shutdown	No, see §§ 63.2450(e) and 63.2525 for recordkeeping requirements.
§ 63.10(b)(2)(ii)	Recordkeeping relevant to SSM periods and CMS	Yes, before August 12, 2023. No, beginning on and after August 12, 2023. See § 63.2525(h) and (l).
§ 63.10(b)(2)(iii)	Records related to maintenance of air pollution control equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Recordkeeping relevant to SSM period	Yes, before August 12, 2023. No, beginning on and after August 12, 2023.
§ 63.10(b)(2)(vi)	CMS Records	Before August 12, 2023, yes but only for CEMS; requirements for CPMS are specified in referenced subparts G and SS of this part. Beginning on and after August 12, 2023, yes for CEMS and CPMS for flares subject to § 63.2450(e)(5).
§ 63.10(b)(2)(x) and (xi)	CMS Records	Only for CEMS; requirements for CPMS are specified in referenced subparts G and SS of this part.
§ 63.10(b)(2)(vii)–(ix)	Records	Yes.
§ 63.10(b)(2)(xii)	Records	Yes.
§ 63.10(b)(2)(xiii)	Records	Only for CEMS.
§ 63.10(b)(2)(xiv)	Records	Yes.
§ 63.10(b)(3)	Records	Yes.
§ 63.10(c)(1)–(6),(9)–(14)	Records	Only for CEMS. Recordkeeping requirements for CPMS are specified in referenced subparts G and SS of this part.
§ 63.10(c)(7)–(8)	Records	No. Recordkeeping requirements are specified in § 63.2525.
§ 63.10(c)(15)	Records	Yes, before August 12, 2023, but only for CEMS. No, beginning on and after August 12, 2023.
§ 63.10(d)(1)	General Reporting Requirements	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	Yes, before October 13, 2020. No, beginning on and after October 13, 2020.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	No.
§ 63.10(d)(4)	Progress Reports	Yes.
§ 63.10(d)(5)(i)	Periodic Startup, Shutdown, and Malfunction Reports	No, § 63.2520(e)(4) and (5) specify the SSM reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports	No.
§ 63.10(e)(1)	Additional CEMS Reports	Yes.
§ 63.10(e)(2)(i)	Additional CMS Reports	Only for CEMS, except this subpart specifies how and when the performance evaluation results are reported.
§ 63.10(e)(2)(ii)	Additional COMS Reports	No. This subpart does not require COMS.
§ 63.10(e)(3)	Reports	No. Reporting requirements are specified in § 63.2520.
§ 63.10(e)(3)(i)–(iii)	Reports	No. Reporting requirements are specified in § 63.2520.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	No. Reporting requirements are specified in § 63.2520.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	No. Reporting requirements are specified in § 63.2520.
§ 63.10(e)(3)(vi)–(viii)	Excess Emissions Report and Summary Report	No. Reporting requirements are specified in § 63.2520.

TABLE 12 TO SUBPART FFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF—Continued

Citation	Subject	Explanation
§ 63.10(e)(4)	Reporting COMS data	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Yes.
§ 63.11	Control device requirements for flares and work practice requirements for equipment leaks.	Yes, except for flares subject to § 63.2450(e)(5).
§ 63.12	Delegation	Yes.
§ 63.13	Addresses	Yes.
§ 63.14	Incorporation by Reference	Yes.
§ 63.15	Availability of Information	Yes.

[FR Doc. 2020–12776 Filed 8–11–20; 8:45 am]

BILLING CODE 6560–50–P

Dated: October 7, 2020.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2020–22562 Filed 10–9–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2002–0047; FRL–10013–69–OAR]

RIN 2060–AU18

National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendments.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on March 26, 2020. The EPA finalized the residual risk and technology review (RTR) conducted for the Municipal Solid Waste (MSW) Landfills source category regulated under national emission standards for hazardous air pollutants (NESHAP). This action corrects inadvertent errors in the cross-referencing and formatting in the **Federal Register**; as well as clarifies two operational and reporting requirements in the March 26, 2020, final rule. This action also revises the heading of 40 CFR part 60, subpart WWW as described in the March 26, 2020, **Federal Register** document. The corrections and clarifications described in this action do not affect the substantive requirements of the regulations or the results of the RTR conducted for the MSW Landfills source category.

DATES: This final rule is effective on November 12, 2020.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Andrew Sheppard, Natural Resources Group, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4161; fax number: (919) 541–0516; and email address: *Sheppard.Andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA is making the following corrections to the final MSW Landfills NESHAP (40 CFR part 63, subpart AAAA) as published in the **Federal Register** on March 26, 2020 (85 FR 17244).

The EPA is correcting cross-referencing errors that were the result of extensive changes to the structure and content of the MSW Landfills NESHAP during the RTR. The initial restructuring is described in the proposed RTR for the MSW Landfills NESHAP (84 FR 36670, July 29, 2019). Further changes to the MSW Landfills NESHAP occurred between proposal and promulgation and those changes are described in the final RTR for the MSW Landfills NESHAP (85 FR 17244, March 26, 2020). Operating facilities cannot comply with certain requirements of the rule as written because the requirements include citations to paragraphs in the rule that do not exist, do not contain the cited content, and/or are inconsistent with the same requirements as they were previously promulgated in section 111 of the Clean Air Act (CAA). As described in the preambles to the proposed and final MSW Landfills NESHAP rules, landfills are subject to regulations under CAA sections 111 (40 CFR part 60, subparts Cf and XXX) and 112 (40 CFR part 63, subpart AAAA). The rules were written to promote consistency among MSW Landfills regulations under the CAA. See section IV.D of the preamble to the proposed rule at 84 FR 36689 (July 29, 2019) and section III.D of the preamble to the final rule at 85 FR 17248 (March 26, 2020). Therefore, where requirements are the same, the regulatory text was copied from 40 CFR part 60, subpart XXX and adapted to cite corresponding references in 40 CFR part 63, subpart AAAA. During this process, some errors were made due to differences in the structures of the two rules. With this action, the EPA is correcting the following errors. These corrections do not change the requirements with which landfills must comply.

First, the EPA is correcting two formatting errors.

- 40 CFR part 60, subpart WWW. Revise the heading of subpart WWW to read: Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014. This change is consistent with the discussion in the preamble to the final rule (85 FR at 17248), but the change was inadvertently not made to the relevant title in the regulatory text. This action implements the revision.
- 40 CFR 63.1983(h)(2)(ii). Remove paragraph (ii). Paragraph (i) is not subordinate to 40 CFR 63.1983(h)(2); rather, it follows 40 CFR 63.1983(h) as 40 CFR 63.1983(i); therefore, there is no need to reserve a paragraph (ii). The proposed regulatory text was correctly printed in the proposed rule at 84 FR 36721 (July 29, 2019).

Additionally, the EPA is correcting the following cross-referencing errors.

- 40 CFR 63.1947(c)(2). Correct the reference from 40 CFR 63.1980(e) and (f) to 40 CFR 63.1982(c) and (d). The reference specifies procedures to use to determine bioreactor moisture content but refers to paragraphs that no longer exist. The requirements in 40 CFR 63.1947(c)(2) were originally promulgated in 40 CFR 63.1945(a)(2) in 2003 and referred to the requirements that are now found in 63.1982(c) and (d). The content of the requirements was not changed in the 2020 amendments to the MSW Landfills NESHAP and/or this correction.
- 40 CFR 63.1959(a)(3)(i), 40 CFR 63.1959(c)(3)(i), and 40 CFR 63.1959(e)(1). Correct the references from 40 CFR 63.1981(i) to 40 CFR 63.1981(l)(1). These three standards refer to procedures for the submittal of performance test reports, but the reference leads to requirements for an initial report instead of ongoing requirements to submit reports electronically. Section III.D.9 of the preamble to the final rule stated that performance tests must be submitted electronically using the requirements in 40 CFR 63.1981(l)(1). Additionally, matching requirements in 40 CFR 60.764(a)(3)(i), 40 CFR 60.764(b)(3)(i), and 40 CFR 60.764(e)(1), respectively, refer to the electronic reporting requirements of 40 CFR 60.767(i)(1), which match those of 40 CFR 63.1981(l)(1).
- 40 CFR 63.1959(a)(4)(i)(A). Correct the reference from 40 CFR 63.1981(e) to 40 CFR 63.1981(d). The standard discusses the procedures for submitting a gas collection and control system design plan if a landfill's emissions exceed the stated threshold according to one method of calculation, but the reference does not include the intended procedures. Corresponding requirements for plan submittal using different calculation methods in 40 CFR 63.1959(a)(2)(ii)(A), 40 CFR 63.1959(a)(3)(iv)(A), and 40 CFR 63.1959(b)(2)(i) all refer to 40 CFR 63.1981(d). Additionally, the requirements in 40 CFR 63.1959(a)(4)(i)(A) align with those of 40 CFR 60.764(a)(4)(i)(A), which refer to requirements that match those in 40 CFR 63.1981(d).
- 40 CFR 63.1959(b)(2)(iii)(A). Correct the reference from "paragraph (f) of this section" to "paragraph (e) of

this section.'' The requirements reference an exception to the requirements of 40 CFR 63.11(b). This exception is stated explicitly in 40 CFR 63.1959(e), not (f). The text in 40 CFR 63.1959(b)(2)(iii)(A) mirrors that in 40 CFR 60.762(b)((2)(iii)(A), which references 40 CFR 60.764(e) for the exception. The requirements in 40 CFR 60.764(e) align with those in 40 CFR 63.1959(e).

• 40 CFR 63.1960(a). Correct the reference from ''paragraphs (a)(1) through (6) of this section,'' to ''paragraphs (a)(1) through (5) of this section.'' Paragraph (a)(6) does not exist. This reference was copied from corresponding text in 40 CFR 60.765(a). The requirements in 40 CFR 60.765(a) are found in paragraphs (a)(1) through (6), but paragraph (a)(4) is reserved. The reserved paragraph was removed from 40 CFR 63.1960(a) but the corresponding change in numbering for the reference was not made.

• 40 CFR 63.1960(a)(3)(i)(B). Correct the reference from 40 CFR 63.1983(e)(5) to 40 CFR 63.1983(e)(4). The reference refers to a specific report, whose requirements are included in 40 CFR 63.1983(e)(4). Additionally, the text in 40 CFR 63.1983(e)(4) refers back to 40 CFR 63.1960(a)(3)(i)(B). These requirements mirror those in 40 CFR 60.765(a)(3)(ii), which references 40 CFR 60.768(e)(4). The corresponding requirements for 40 CFR 60.768(e)(4) are found in 40 CFR 63.1983(e)(4).

• 40 CFR 63.1960(a)(5). Correct the reference from 40 CFR 63.1981(c)(3) to 40 CFR 63.1981(d)(3). These requirements discuss the need for alternative collection systems to demonstrate compliance with the MSW Landfills standards. The original reference is for a report on emissions, instead of the design plan that requires the demonstration of sufficiency of alternatives. The requirements in 40 CFR 63.1960(a)(5) mirror those in 40 CFR 60.765(a)(6), which refers to 40 CFR 60.767(c)(3). The requirements in 40 CFR 60.767(c)(3) match those in 40 CFR 63.1981(d)(3).

• 40 CFR 63.1960(b). Correct the reference from 40 CFR 63.1981(b) to 40 CFR 63.1981(d). The requirements discuss the timing of installation for system components included in the landfill's design plan, but the reference points to a report for landfill capacity instead of the design plan. The requirements in 40 CFR 63.1960(b) match those in 40 CFR 60.765(b), which refers to 40 CFR 60.767(c). The requirements corresponding to those in 40 CFR 60.767(c) are found in 40 CFR 63.1981(d).

• 40 CFR 63.1960(e)(2). Correct the reference from 40 CFR 63.1958(c)(1) to 40 CFR 63.1958(e)(1). The text in 40 CFR 63.1960(e) describes the requirements for MSW landfills during periods of start-up, shutdown, and malfunction (SSM). At proposal, the regulatory text incorrectly referenced operational standards for temperature instead of SSM events in two places. While one of the references was corrected in the final rule, the second was overlooked and is being corrected here. See Section IV.D.3 of the preamble to the final rule (at 85 FR 17255, March 26, 2020).

• 40 CFR 63.1961(f). Correct the reference from 40 CFR 63.1981(i) to 40 CFR 63.1981(h). The requirements for demonstrating compliance with the surface methane operational standard state that certain information must be included in the semi-annual report but cite the paragraph for the initial performance test report instead of the paragraph containing requirements for semi-annual reporting.

• 40 CFR 63.1983(g). Correct the reference from paragraphs 40 CFR 63.1961(a)(1) through (5) to 40 CFR 63.1961(a)(1) through (6). This section discusses the requirement to keep records of certain gas collection and control system parameters that are measured during system operation. While the requirements were revised from 40 CFR 63.1961(a)(1) through (5) in the proposal to 40 CFR 63.1961(a)(1) through (6) in the final, the corresponding reference was not updated. The changes to the requirements were discussed in section IV.D.1 of the preamble to the final rule at 85 FR 17253–17254 (March 26, 2020).

With this document, the EPA is also clarifying its intent on certain requirements in the March 26, 2020, final rule where questions have arisen on implementation.

• 40 CFR 63.1958(c). Add text to clarify when the revised wellhead interior operating standard applies. Prior to compliance with the amended standards, a landfill owner must operate each interior wellhead in the collection system as specified in 40 CFR 60.753(c) of 40 CFR part 60, subpart WWW. The requirements in 40 CFR 60.753(c) require landfill owners to operate each interior wellhead with landfill gas temperatures less than 55 degrees Celsius and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. As explained in the preamble to the final rule at 85 FR 17248 (March 26, 2020), the amendments to the MSW Landfills NESHAP eliminated the operational standards for nitrogen and oxygen and increased the temperature operating standard. The final regulatory text was unclear as to whether or not the nitrogen and oxygen standards remained in effect after the compliance date of September 27, 2021. Thus, the correction clarifies that landfill owners do not need to comply with the provisions of 40 CFR 60.753(c) of 40 CFR part 60, subpart WWW once they comply with the amended standards.

• Table 1 to Subpart AAAA—Applicability of NESHAP General Provisions to Subpart AAAA. Revise Footnote 2 to clarify the intent that landfill owners or operators do not need to submit duplicate notifications under 40 CFR part 63, subpart AAAA if they have already submitted notifications under either 40 CFR part 60, subpart WWW or subpart XXX, or a state or federal plan implementing 40 CFR part Cc or Cf, that contain the same information as required by 40 CFR part 63, subpart AAAA. This clarification is consistent with the regulatory text in the introductory paragraph to 40 CFR 63.1981 that states that submission of parallel reports under 40 CFR part 60, subpart WWW; 40 CFR part XXX; or a state or federal plan implementing 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf constitutes compliance with parallel requirements in that section.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because, as explained here and in each bullet above, the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the MSW Landfills NESHAP. Rather, the changes align the cross-references in the requirements of the MSW Landfills NESHAP with corresponding cross-references in the requirements of the Emission Guidelines and New Source Performance Standards for MSW Landfills in 40 CFR part 60, subparts Cf and XXX. Additionally, the revisions correct the regulatory text to match other intended minor revisions described in the preamble to the final rule. Thus, notice and opportunity for public comment are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 28, 2020.

Anne Austin,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

For the reasons set forth in the preamble, the EPA amends 40 CFR parts 60 and 63 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014

■ 2. Revise the heading of subpart WWW to read as set forth above.

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

Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

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

Authority: 42 U.S.C. 7401 *et seq.*

■ 4. Section 63.1947 is amended by revising paragraph (c)(2) to read as follows:

§ 63.1947 When do I have to comply with this subpart if I own or operate a bioreactor?

* * * * *

(c) * * *

(2) Begin operating the gas collection and control system within 180 days after initiating liquids addition or within 180 days after achieving a moisture content of 40 percent by weight, whichever is later. If you choose to begin gas collection and control system operation 180 days after achieving a 40-percent moisture content instead of 180 days after liquids addition, use the procedures in §§ 63.1982(c) and (d) to determine when the bioreactor moisture content reaches 40 percent.

■ 5. Section 63.1958 is amended by revising paragraph (c) introductory text to read as follows:

§ 63.1958 Operational standards for collection and control systems.

* * * * *

(c) Operate each interior wellhead in the collection system as specified in 40 CFR 60.753(c), until the landfill owner or operator elects to meet the operational standard for temperature in paragraph (c)(1) of this section.

* * * * *

■ 6. Section 63.1959 is amended by revising paragraphs (a)(3)(i), (a)(4)(i)(A), (b)(2)(iii)(A), (c)(3)(i), and (e)(1) to read as follows:

§ 63.1959 NMOC calculation procedures.

(a) * * *

(3) * * *

(i) Within 60 days after the date of completing each performance test (as defined in § 63.7 of subpart A), the owner or operator must submit the results according to § 63.1981(l)(1).

* * * * *

(4) * * *

(i) * * *

(A) Submit a gas collection and control system design plan within 1 year as specified in § 63.1981(d) and install and operate a gas collection and control system within 30 months of the first annual report in which the NMOC emission rate equals or exceeds 50 Mg/yr, according to paragraphs (b)(2)(ii) and (iii) of this section.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(A) A non-enclosed flare designed and operated in accordance with the parameters established in § 63.11(b) except as noted in paragraph (e) of this section; or

* * * * *

(c) * * *

(3) * * *

(i) Within 60 days after the date of completing each performance test (as defined in § 63.7), the owner or operator must submit the results of the performance test, including any associated fuel analyses, according to § 63.1981(l)(1).

* * * * *

(e) * * *

(1) Within 60 days after the date of completing each performance test (as defined in § 63.7), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by § 63.1959(c) or (e) according to § 63.1981(l)(1).

* * * * *

■ 7. Section 63.1960 is amended by revising paragraphs (a) introductory text, (a)(3)(i)(B), (a)(5), (b) introductory text, and (e)(2) to read as follows:

§ 63.1960 Compliance provisions.

(a) Except as provided in § 63.1981(d)(2), the specified methods in paragraphs (a)(1) through (5) of this section must be used to determine whether the gas collection system is in compliance with § 63.1959(b)(2)(ii).

* * * * *

(3) * * *

(i) * * *

(B) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator must submit the items listed in § 63.1981(h)(7) as part of the next semi-annual report. The owner or operator must keep records according to § 63.1983(e)(4).

* * * * *

(5) An owner or operator seeking to demonstrate compliance with § 63.1959(b)(2)(ii)(B)(*4*) through the use of a collection system not conforming to the specifications provided in § 63.1962 must provide information satisfactory to the Administrator as specified in § 63.1981(d)(3) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 63.1958(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 63.1981(d). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

* * * * *

(e) * * *

(2) Once an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with the operational standard in § 63.1958(e)(1), the provisions of this subpart apply at

all times, including periods of SSM. During periods of SSM, you must comply with the work practice requirement specified in § 63.1958(e) in lieu of the compliance provisions in § 63.1960.

■ 8. Section 63.1961 is amended by revising paragraph (f) to read as follows:

§ 63.1961 Monitoring of operations.

* * * * *

(f) Each owner or operator seeking to demonstrate compliance with the 500-ppm surface methane operational standard in § 63.1958(d) must monitor surface concentrations of methane according to the procedures in § 63.1960(c) and the instrument specifications in § 63.1960(d). If you are complying with the 500-ppm surface methane operational standard in § 63.1958(d)(2), for location, you must determine the latitude and longitude coordinates of each exceedance using an instrument with an accuracy of at least 4 meters and the coordinates must be in decimal degrees with at least five decimal places. In the semi-annual report in § 63.1981(h), you must report the location of each exceedance of the 500-ppm methane concentration as provided in § 63.1958(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

* * * * *

■ 9. Section 63.1983 is amended by revising paragraph (g) to read as follows:

§ 63.1983 What records must I keep?

* * * * *

(g) Except as provided in § 63.1981(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 63.1961(a)(1) through (6).

* * * * *

■ 10. Amend Table 1 to subpart AAAA of part 63 by revising Footnote 2 to read as follows:

Table 1 to Subpart AAAA of Part 63

* * * * *

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	*	*	*	*	*	*
*	*	*	*	*	*	*

[2] If an owner or operator has complied with requirements that are parallel to the requirements of the part 63 citation of this table under 40 CFR part 60, subpart WWW or subpart XXX, or a state or federal plan that implements 40 CFR part 60, subpart Cc or Cf, then additional notification for that requirement is not required.

[FR Doc. 2020–19676 Filed 10–9–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, and 423

[CMS–4190–CN]

RIN 0938–AT97

Medicare Program; Contract Year 2021 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on June 2, 2020 entitled "Medicare Program; Contract Year 2021 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program."

DATES: *Effective date:* This correcting document is effective on October 13, 2020.

FOR FURTHER INFORMATION CONTACT:

Cali Diehl, (410) 786–4053 or Christopher McClintick, (410) 786–4682—General Questions.

Kimberlee Levin, (410) 786–2549—Part C Issues.

Stacy Davis, (410) 786–7813—Part C and D Payment Issues.

Melissa Seeley, (212) 616–2329—D–SNP Issues.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2020–11342 of June 2, 2020 (85 FR 33796), there were a number of technical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the document published June 2, 2020. Accordingly, the corrections are effective August 3, 2020.

II. Summary of Errors

On page 33820, in our discussion of dual eligible special needs plans, we inadvertently included a disclaimer that was not applicable to the published final rule.

On pages 33876 and 33877, in our discussion of the information collection requirements regarding Special Supplemental Benefits for the Chronically Ill (SSBCI), we inadvertently identified the wrong Paperwork Reduction Act package in our narrative and omitted several Office of Management and Budget (OMB) control numbers from Table 3.

On page 33881, in our discussion of the information collection requirements regarding medical savings account (MSA) medical loss ratio (MLR), we made inadvertent errors the amount of time it would take beneficiaries to complete an enrollment form.

On page 33883, in the table that provides a summary of the annual information collection burden (Table 6), we made the following typographical errors:

- In the table title, we included the term "requirements" instead of "burden".

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0074; FRL–10006–88–OAR]

RIN 2060–AT86

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Organic Liquids Distribution (Non-Gasoline) (OLD) source category regulated under National Emission Standards for Hazardous Air Pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing amendments to the storage tank requirements as a result of the RTR. In addition, we are taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); add requirements for electronic reporting of performance test results and reports, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; add operational requirements for flares; and make other minor technical improvements. We estimate that these amendments will reduce emissions of hazardous air pollutants (HAP) from this source category by 186 tons per year (tpy), which represents an approximate 8 percent reduction of HAP emissions from the source category.

DATES: This final rule is effective on July 7, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 7, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0074. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Neil Feinberg, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2214; fax number: (919) 541–0516; and email address: *feinberg.stephen@epa.gov.* For specific information regarding the risk assessment, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. Jon Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ANSI American National Standards Institute
APCD air pollution control device
ASTM American Society for Testing and Materials
CAA Clean Air Act
CARB California Air Resources Board
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CF Code of Federal Regulations
CMS continuous monitoring systems
CRA Congressional Review Act
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FTIR Fourier Transform Infrared (FTIR) Spectroscopy
HAP hazardous air pollutant(s)
HON National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, also known as the Hazardous Organic NESHAP
HQ hazard quotient
IBR incorporation by reference
ICR Information Collection Request
km kilometer
LEL lower explosive limit
LDAR leak detection and repair
MACT maximum achievable control technology
MDL method detection limit
MIR maximum individual risk
NESHAP national emission standards for hazardous air pollutants
NHVcz net heating value in the combustion zone gas
NHVvg net heating value of the flare vent gas
NOCS Notification of Compliance Status
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OLD Organic Liquids Distribution (Non-Gasoline)
OMB Office of Management and Budget
PDF portable document format
POM polycyclic organic matter
ppm parts per million
ppmv parts per million by volume
PRA Paperwork Reduction Act
PRD pressure relief device
psia pounds per square inch absolute
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SCAQMD South Coast Air Quality Management District
SDS safety data sheet(s)
SOCMI synthetic organic chemical manufacturing industry
SSM startup, shutdown, and malfunction
TAC Texas Administrative Code
The Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standard
VOC volatile organic compound(s)
VP_X vapor pressure

Background information. On October 21, 2019, the EPA proposed revisions to the OLD NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* Docket ID No. EPA–HQ–OAR–2018–0074. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the OLD source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the OLD source category in our October 21, 2019, RTR proposal?
III. What is included in this final rule?
A. What are the significant changes since proposal?
B. What are the final rule amendments based on the risk review for the OLD source category?
C. What are the final rule amendments based on the technology review for the OLD source category?
D. What are the final rule amendments pursuant to CAA Section 112(d)(2) and (3) for the OLD source category?
E. What are the final rule amendments addressing emissions during periods of SSM?
F. What other changes have been made to the NESHAP?
G. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the OLD source category?
A. Residual Risk Review for the OLD Source Category
B. Technology Review for the OLD Source Category
C. Amendments Pursuant to CAA Section 112(d)(2) and (3) for the OLD Source Category
D. Amendments Addressing Emissions During Periods of SSM
E. Technical Amendments to the MACT Standards
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code(s)
Organic Liquids Distribution (Non-Gasoline)	3222, 3241, 3251, 3252, 3259, 3261, 3361, 3362, 3399, 4247, 4861, 4869, 4931, 5622.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. The final standards are directly applicable to the affected sources. Federal, state, local, and tribal government entities are not affected by this final action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992), the OLD source category includes, but is not limited to, those activities associated with the storage and distribution of organic liquids other than gasoline, at sites which serve as distribution points from which organic liquids may be obtained for further use and processing.

The OLD source category involves the distribution of organic liquids into, out of, or within a source. The distribution activities include the storage of organic liquids in storage tanks not subject to other 40 CFR part 63 standards and transfers into or out of the tanks from or to cargo tanks, containers, and pipelines. The types of organic liquids and emission sources covered by the OLD NESHAP are frequently found at many types of facilities that are already subject to other NESHAP. If equipment is in OLD service and is subject to another 40 CFR part 63 NESHAP, then that equipment is not subject to the corresponding requirements in the OLD NESHAP.

To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/organic-liquids-distribution-national-emission-standards-hazardous.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program, and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under the Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 8, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tpy or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 56288, October 21, 2019.

B. What is the OLD source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the OLD NESHAP on February 3, 2004 (69 FR 5038). The standards are codified at 40 CFR part 63, subpart EEEE. The OLD industry consists of facilities that store and distribute organic liquids. The source category covered by this MACT standard currently includes 177 facilities. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July, 1992), the OLD source category includes, but is not limited to, those activities associated with the storage and distribution of organic liquids other than gasoline, at sites that serve as distribution points from which organic liquids may be obtained for further use and processing.

The OLD source category involves the distribution of organic liquids into, out of, or within a source. The distribution activities include the storage of organic liquids in storage tanks and transfers into or out of the tanks from or to cargo tanks, containers, and pipelines that are not subject to other 40 CFR part 63 standards. Organic liquids are any crude oils downstream of the first point of custody transfer and any non-crude oil liquid that contains at least 5 percent by weight of any combination of the 98 HAP listed in Table 1 to 40 CFR part 63, subpart EEEE. For the purposes of the OLD NESHAP, organic liquids do not include gasoline, kerosene (No. 1 distillate oil), diesel (No. 2 distillate oil), asphalt, and heavier distillate oil and fuel oil, fuel that is consumed or dispensed on the plant site, hazardous waste, wastewater, ballast water, or any

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

non-crude liquid with an annual average true vapor pressure less than 0.7 kilopascals (0.1 psia). The OLD NESHAP applies only to major sources of HAP (*i.e.,* sources that have the potential to emit 10 tpy of any single HAP or 25 tpy of combined HAP). Facilities subject to this NESHAP fall into two types, either (1) petrochemical terminals primarily in the business of storing and distributing organic liquids or (2) chemical production facilities or other manufacturing facilities that either have a distribution terminal not subject to another major source NESHAP or have a few miscellaneous storage tanks or transfer racks that are not otherwise subject to another major source NESHAP.

Equipment controlled by the OLD NESHAP are storage tanks, transfer operations, transport vehicles while being loaded, and equipment leak components that have the potential to leak such as valves, pumps, and sampling connections. Table 2 to subpart EEEE of 40 CFR part 63 contains the criteria for control of storage tanks and transfer racks. If a storage tank of a certain threshold capacity stores crude oil or a non-crude organic liquid having a threshold sum of partial pressures of HAP, then compliance options are either to (1) route emissions through a closed vent system to a control device that achieves a 95-percent control efficiency or (2) comply with work practice standards of 40 CFR part 63, subpart WW (*i.e.,* operate the tank with a compliant internal floating roof or a compliant external floating roof), route emissions through a closed vent system to a fuel gas system of a process, or route emissions through a vapor balancing system that meets requirements specified in 40 CFR 63.2346(a)(4). Storage tanks storing non-crude organic liquids having a sum of partial pressures of HAP of at least 11.1 psia do not have the option to comply using an internal or external floating roof tank. Table 2 to subpart EEEE of 40 CFR part 63 contains the criteria for control of transfer racks, which are based on the facility-wide organic liquid loading volume for organic liquids having threshold HAP content expressed in percent HAP by weight of the organic liquid. For transfer racks required to control HAP emissions, the standards are either to (1) route emissions through a closed vent system to a control device that achieves 98-percent control efficiency or (2) operate a compliant vapor balancing system. Transfer rack systems that fill containers of 55 gallons or greater are required to comply with specific provisions of 40 CFR part 63, subpart PP or operate a vapor balancing system.

The NESHAP requires leak detection and repair for certain equipment components associated with storage tanks and transfer racks subject to this subpart and for certain equipment components associated with pipelines between such storage tanks and transfer racks. The components are specified in the definition of "Equipment leak components" at 40 CFR 63.2406 and include pumps, valves, and sampling connection systems in organic liquid service. The owner or operator is required to comply with the requirements for pumps, valves, and sampling connections in 40 CFR part 63, subpart TT (control level 1), subpart UU (control level 2), or subpart H. This requires the use of EPA Method 21 of appendix A–7 to 40 CFR part 60 ("EPA Method 21") to determine the concentration of any detected leaks and to repair the component if the measured concentration exceeds the definition of a leak within the applicable subpart.

Pressure relief devices (PRDs) on vapor balancing systems are required to be monitored quarterly for leaks. An instrument reading of 500 parts per million (ppm) or greater defines a leak. Leaks must be repaired within 5 days.

The types of organic liquids and emission sources covered by the OLD NESHAP are frequently found at many types of facilities that are already subject to other NESHAP. If equipment is in OLD service and is subject to another 40 CFR part 63 NESHAP, then that equipment is not subject to the corresponding requirements in the OLD NESHAP.

C. What changes did we propose for the OLD source category in our October 21, 2019, RTR proposal?

On October 21, 2019, the EPA published a proposed rule in the **Federal Register** for the OLD NESHAP, 40 CFR part 63, subpart EEEE, that took into consideration the RTR analyses. We proposed to find that the risks from the source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. In the proposed rule, we proposed under CAA section 112(d)(6) to amend the requirements for storage tanks and equipment leaks and also provided an alternative fenceline monitoring program in the OLD source category as follows:

- Revise the average true vapor pressure thresholds of the OLD storage tanks for existing sources requiring control to align with those of the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) and National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry ("HON," 40 CFR part 63, subpart G) where the thresholds are lower;
- add a requirement for leak detection and repair (LDAR), using EPA Method 21 with a 500 ppm leak definition for fittings on fixed roof storage tanks (*e.g.,* access hatches) that are not subject to the 95 percent by weight control requirements;
- revise the equipment leak requirements to add connectors to the monitored equipment component types at a leak definition of 500 ppm (*i.e.,* requiring connectors to be compliant with either 40 CFR part 63, subparts UU or H); and
- add an optional implementation of a fenceline monitoring program in lieu of the proposed technology review amendments for storage tanks and equipment leaks discussed above.

In the proposed rule, we proposed under CAA section 112(d)(2) and (3) to amend the operating and monitoring requirements for flares used as air pollution control devices (APCDs) in the OLD source category as follows:

- We proposed to add requirements at 40 CFR 63.2380 to directly apply the Petroleum Refinery Sector Rule (PRSR) flare definitions and requirements in 40 CFR part 63, subpart CC to flares in the OLD source category, with certain clarifications and exemptions;
- we proposed to amend requirements that flares used as APCDs in the OLD source category operate pilot flame systems continuously when organic HAP emissions are routed to the flare. Specifically, we proposed to remove the cross-reference to the General Provisions and instead cross-reference 40 CFR part 63, subpart CC to include in the OLD NESHAP the existing provisions that flares operate with a pilot flame at all times and be continuously monitored for a pilot flame using a thermocouple or any other equivalent device. We also proposed to add a continuous compliance measure that would consider each 15-minute block when there is at least 1 minute where no pilot flame is present when regulated material is routed to the flare as a deviation from the standard;
- we proposed to amend requirements that flares used as APCDs in the OLD source category operate with no visible emissions (except for periods not to exceed a total of 5 minutes during any 2 consecutive hours) when organic HAP emissions are routed to the flare. Specifically, we proposed to remove the

cross-reference to the General Provisions and instead cross-reference 40 CFR part 63, subpart CC to include the limitation on visible emissions. We also proposed to clarify that the initial 2-hour visible emissions demonstration should be conducted the first time regulated materials are routed to the flare. With regard to continuous compliance with the visible emissions limitation, we proposed daily visible emissions monitoring for whenever regulated material is routed to the flare. On days the flare receives regulated material, we proposed that owners or operators of flares monitor visible emissions at a minimum of once per day using an observation period of 5 minutes and EPA Method 22. Additionally, whenever regulated material is routed to the flare and there are visible emissions from the flare, we proposed that another 5-minute visible emissions observation period be performed using EPA Method 22, even if the required daily visible emissions monitoring has already been performed. If an employee observes visible emissions, then the owner or operator of the flare would perform a 5-minute EPA Method 22 observation to check for compliance upon initial observation or notification of such event. In addition, in lieu of daily visible emissions observations performed using EPA Method 22, we proposed that owners or operators be allowed to use video surveillance cameras. We also proposed to extend the observation period for a flare to 2 hours whenever visible emissions are observed for greater than 1 continuous minute during any of the required 5-minute observation periods;

• we proposed the consolidation of provisions related to flare tip velocity. Specifically, we proposed to remove the cross-reference to the General Provisions and instead cross-reference 40 CFR part 63, subpart CC to consolidate the specification of maximum flare tip velocity into the OLD NESHAP as a single equation, irrespective of flare type (*i.e.,* steam-assisted, air-assisted, or non-assisted). We also proposed not to include the special flare tip velocity equation in the General Provisions at 40 CFR 63.11(b)(6)(i)(A) for non-assisted flares with hydrogen content greater than 8 percent;

• in lieu of requiring compliance with the operating limits for net heating value of the flare vent gas in the General Provisions, we proposed to cross-reference 40 CFR part 63, subpart CC to include in the OLD NESHAP a single minimum operating limit for the net heating value in the combustion zone gas (NHVcz) of 270 British thermal units per standard cubic foot during any 15-minute period for steam-assisted, air-assisted, and non-assisted flares used as APCDs in the OLD source category. We also proposed to allow engineering estimates to characterize the amount of gas flared and the amount of assist gas (if applicable) introduced into the system. Finally, we proposed that owners or operators of flares in the OLD source category that use grab sampling and engineering calculations to determine compliance must still assess compliance with the NHVcz operating limit on a 15-minute block average using the equation at 40 CFR 63.670(m)(1) and cumulative volumetric flows of flare vent gas, assist steam, and premix assist air; and

• except for the visible emissions operating limits, we proposed to use a 15-minute block averaging period for each proposed flare operating parameter (*i.e.,* presence of a pilot flame, flare tip velocity, and NHVcz) to ensure that the flare is operated within the appropriate operating conditions.

In addition to the amendments proposed for flares used as APCDs, the EPA proposed to clarify that PRDs on vapor return lines of a vapor balancing system are also subject to the vapor balancing system requirements of 40 CFR 63.2346(a)(4)(iv).

We also proposed to:

• Revise the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008);

• add the requirement that owners or operators of OLD facilities submit electronic copies of required performance test reports, performance evaluation reports, compliance reports, NOCS reports, and fenceline monitoring reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI);

• add requirements for testing and recordkeeping to confirm the annual average true vapor pressure at least every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to ensure the tank's applicability and confirm that it should not be subject to the 95-percent control requirements of the regulation;

• add requirements that the contents of tanks that are claimed to be not subject to the OLD NESHAP because they contain less than 5-percent HAP (and, therefore, do not meet the definition of "Organic liquids" within the OLD NESHAP) should be tested every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to confirm that the tank is not storing "Organic liquids" and, therefore, is not subject to the rule;

• amend the definition of the term "Annual average true vapor pressure" at 40 CFR 63.2406 by replacing one of the acceptable methods for the determination of vapor pressure. We proposed to replace the method, ASTM D2879, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," with the method, ASTM D6378–18a, "Standard Test Method for Determination of Vapor Pressure (VPX) of Petroleum Products, Hydrocarbons, and Hydrocarbon-Oxygenate Mixtures (Triple Expansion Method)." Other monitoring method clarifications and incorporations by references were also proposed; and

• add a definition of the term "Condensate" and to specify its regulation in this rule in the same way crude oil is regulated at the definition of the term "Organic liquid" and at Tables 2 and 2b to 40 CFR part 63, subpart EEEE.

In addition to the revisions proposed above, we also proposed several editorial clarification and minor corrections to 40 CFR part 63, subpart EEEE.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the OLD source category and amends the OLD NESHAP based on those determinations. This action also finalizes other changes to the NESHAP, including adding requirements and clarifications for periods of SSM and bypasses, revising the operating and monitoring requirements for flares used as APCDs; adding provisions for electronic reporting of performance test results and reports, performance evaluation reports, compliance reports, and NOCS reports; and other minor editorial and technical changes. This action also reflects several changes to the October 21, 2019, RTR proposal in consideration of comments received during the public comment period as described in section IV of this preamble.

A. What are the significant changes since proposal?

This section introduces the significant changes to the OLD NESHAP amendments made since proposal being promulgated. These changes are discussed in further detail in section IV of this preamble.

• We are not finalizing the proposed requirements for LDAR using EPA Method 21 with a 500 ppm leak

definition for fittings on fixed roof storage tanks (*e.g.,* access hatches) that are not subject to the 95 percent by weight control requirements in the final rule;

- we are not finalizing the proposal to add connectors to the monitored equipment component types at a leak definition of 500 ppm (*i.e.,* requiring connectors to be compliant with either 40 CFR part 63, subparts UU or H);
- we are not finalizing the option of allowing for a fenceline monitoring program in lieu of other requirements;
- we are finalizing standards for storage tank degassing emission points during periods of SSM to ensure a CAA section 112 standard applies "at all times;" and
- we are not finalizing the proposed required testing and recordkeeping for emission sources not requiring control to confirm the annual average true vapor pressure at least every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to ensure the tank's applicability and confirm that it should not be subject to the 95 percent control requirements of the regulation. Further, we are not finalizing, as proposed, a requirement that the contents of tanks that are claimed to be not subject to the OLD NESHAP because they contain less than 5 percent HAP (and, therefore, do not meet the definition of "Organic liquids" within the OLD NESHAP) should be tested every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to confirm that the tank is not storing "organic liquids" and, therefore, is not subject to the rule.

B. What are the final rule amendments based on the risk review for the OLD source category?

This section introduces the final amendments to the OLD NESHAP being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to the MACT standards based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, the standards provide an ample margin of safety to protect public health, and that more stringent standards are not necessary to prevent an adverse environmental effect. See section 3 of the *Summary of Public Comments and Responses for the Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action for comments we received regarding risk review and our responses.

C. What are the final rule amendments based on the technology review for the OLD source category?

We determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the MACT standards to include revised average true vapor pressure thresholds of the OLD storage tanks for existing sources, requiring control to align with those of the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) and HON (40 CFR part 63, subpart G) where the thresholds are lower.

Section IV.B.3 of this preamble provides a summary of key comments we received on the technology review and our responses.

D. What are the final rule amendments pursuant to CAA Section 112(d)(2) and (3) for the OLD source category?

The EPA is finalizing the changes proposed pursuant to CAA section 112(d)(2) and (3). Consistent with the October 21, 2019, RTR proposal, we are revising monitoring and operational requirements for flares to ensure that OLD facilities that use flares as APCDs meet the MACT standards at all times when controlling HAP emissions. In addition, we are adding provisions and clarifications for periods of SSM and bypasses, including PRD releases, bypass lines on closed vent systems, maintenance activities, and certain gaseous streams routed to a fuel gas system to ensure that CAA section 112 standards apply continuously, consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008). Based on comments received on the proposed rulemaking, we are also adding a standard for storage tank degassing for storage tanks subject to the control requirements in Tables 2 and 2b to 40 CFR part 63, subpart EEEE.

Detailed changes and associated rationale regarding flares and PRDs are set forth in the proposed rule. See 84 FR 56302 through 56306, October 21, 2019. Section IV.C.3 of this preamble provides a summary of key comments we received on the CAA section 112(d)(2) and (3) provisions and our responses.

E. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the OLD NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.E.1 of the proposal preamble (84 FR 56318, October 21, 2019), the OLD NESHAP requires that the standards apply at all times (see 40 CFR 63.2350(a)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). We determined that facilities in this source category can generally meet the applicable OLD NESHAP standards at all times, including periods of startup and shutdown. Where appropriate, and as discussed in section III.C of this preamble, we are also finalizing alternative standards in this preamble for storage tank degassing emission points during periods of SSM to ensure a CAA section 112 standard applies "at all times." Other than the storage tank degassing emission point discussed in section III.C of this preamble, the EPA determined that no additional standards are needed to address emissions during these periods.

Further, the EPA is not finalizing standards for malfunctions. As discussed in the proposal preamble (84 FR 56318, October 21, 2019), the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. Refer to section IV.E.1 of the proposal preamble (84 FR 56318, October 21, 2019) for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, we are finalizing revisions to the General Provisions table to 40 CFR part 63, subpart EEEE, to eliminate requirements that include rule language

providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.2350(a) that the standards apply at all times.

Also, based on comments received during the public comment period, we are revising the proposed requirements of 40 CFR 63.2378(e) for periods of planned routine maintenance of the control device to allow tank breathing losses to be consistent with our intent at proposal (see 84 FR 56323, October 21, 2019), and we are revising 40 CFR 63.2346(l) to sufficiently address the SSM exemption provisions from subparts referenced by the OLD NESHAP standards (such as 40 CFR part 63, subparts SS, TT, and UU) that are no longer applicable. Finally, we are extending the compliance date of removing the portion of the "deviation" definition in 40 CFR 63.2406 that addresses SSM periods as being applicable to 3 years after publication of the final rule instead of 180 days after publication of the final rule in the **Federal Register** to provide a consistent compliance date for all final rule SSM provisions due to the addition of the tank degassing requirements discussed in section IV.C of this preamble. See section 10.1 of the *Summary of Public Comments and Responses for the Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action, for a summary of the significant comments we received on the SSM provisions and our responses.

F. What other changes have been made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other NESHAP requirements. To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners or operators of facilities in the OLD source category submit electronic copies of required performance test reports, performance evaluation reports, compliance reports, and NOCS reports through the EPA's CDX using CEDRI. A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action. The final rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [2] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous emissions monitoring systems (CEMS) measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT. The final rule requires that NOCS reports be submitted as a PDF upload in CEDRI. For compliance reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the template for these reports will be located on the CEDRI website.[3]

We also are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim.

We are finalizing the revision of 40 CFR 63.2354(c) to add ASTM D6886–18, "Standard Test Method for Determination of the Weight Percent Individual Volatile Organic Compounds in Waterborne Air-Dry Coatings by Gas Chromatography," as another acceptable method for the determination of HAP content of an organic liquid. We are also finalizing the replacement of method ASTM D2879 with method ASTM D6378–18a as an acceptable method for determination of whether a total vapor pressure (and, therefore, the sum total of Table 1 to 40 CFR part 63, subpart EEEE HAP) is below the threshold level requiring control for a storage tank.

Finally, we are finalizing all of the revisions that we proposed for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in 84 FR 56323 through 56324 and Table 9 of the proposal. Section IV.E.3 of this preamble provides a summary of key comments we received on these provisions and our responses.

G. What are the effective and compliance dates of the standards?

The revisions to the OLD NESHAP standards being promulgated in this action are effective on July 7, 2020. From our assessment of the timeframe needed for implementing the entirety of the revised requirements (see 84 FR 56324 and 56325, October 21, 2019), the EPA proposed a period of 3 years to be the most expeditious compliance period practicable. No opposing comments were received during the public comment period on the length of the compliance period and we are finalizing the 3-year period as proposed. Thus, the compliance date of the final amendments for all existing affected sources and all new affected sources that commence construction or reconstruction on or before October 21, 2019, is no later than 3 years after the effective date of the final rule. Furthermore, as discussed in sections III.C and D of this preamble, we are adding a standard for storage tank degassing for storage tanks subject to the control requirements in Tables 2 and 2b to 40 CFR part 63, subpart EEEE since degassing is considered a SSM event for storage tanks. The provisions being finalized are similar to the requirements promulgated in the Petroleum Refineries NESHAP. As we discovered during the Petroleum Refineries NESHAP rulemaking, the challenges faced by affected sources in complying with these requirements necessitated additional compliance time from what was promulgated, eventually having to move the original compliance date of these provisions from February 1, 2016, to August 1, 2018, an additional 2 and a half years.[4] Therefore, the 3-year compliance date that was proposed for the OLD NESHAP provides a consistent time allowance to OLD sources as was needed for petroleum refineries to fully implement the final amendments to this rule. We have also revised the effective date of removing the portion of the "deviation" definition in 40 CFR 63.2406 that addresses SSM periods as being applicable 3 years after publication of the final rule in the **Federal Register** to provide a consistent compliance date due to the addition of the tank degassing requirements. For all new affected sources that commenced construction or reconstruction after October 21, 2019, the effective date is

[2] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[3] *https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri.*

[4] See *https://www.epa.gov/sites/production/files/2018-07/documents/petrefinery_compliance_ext_factsheet.pdf.*

July 7, 2020, or upon initial startup, whichever is later.

IV. What is the rationale for our final decisions and amendments for the OLD source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the OLD Source Category

1. What did we propose pursuant to CAA section 112(f) for the OLD source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the October 21, 2019, proposed rule for 40 CFR part 63, subpart EEEE (84 FR 56288). The results of the risk assessment for the proposal are presented briefly below and in more detail in the document, *Residual Risk Assessment for the Organic Liquids Distribution (Non-Gasoline) Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking.

TABLE 2—ORGANIC LIQUIDS DISTRIBUTION (NON–GASOLINE) INHALATION RISK ASSESSMENT RESULTS AS PROPOSED

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Population at increased risk of cancer ≥1-in-1 million	Annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ [4]
157	20	350,000	0.03	0.4	HQ_{REL} = 1 (toluene, formaldehyde, and chloroform).

[1] Number of facilities evaluated in the risk analysis. This number is less than the 173 existing facilities identified in the source category because OLD emission points could not be identified at all facilities. This is explained in the Data Quality memorandum. For this category, allowable emissions are assumed to equal actual emissions.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the reference exposure level (REL). When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the proposed inhalation risk assessment, as shown in Table 2 of this preamble, indicate the estimated cancer maximum individual risk (MIR) is 20-in-1 million, with 1,3-butadiene from equipment leaks as the major contributor to the risk. At proposal, the total estimated cancer incidence from this source category was estimated to be 0.03 excess cancer cases per year, or one excess case every 33 years. Approximately 350,000 people were estimated to face an increased cancer risk at or above 1-in-1 million due to inhalation exposure to actual HAP emissions from this source category. At proposal, the estimated maximum chronic noncancer TOSHI from inhalation exposure for this source category was 0.4. The screening assessment of worst-case inhalation impacts indicated a worst-case maximum acute HQ of 1 for toluene, formaldehyde, and chloroform based on the 1-hour REL for each pollutant.

At proposal, potential multipathway human health risks were estimated using a three-tier screening assessment of the HAP known to be persistent and bio-accumulative in the environment emitted by facilities in this source category. The only pollutants with elevated Tier 1 and Tier 2 screening values were polycyclic organic matter (POM) (cancer). The Tier 2 screening value for POM was 6, which means that we were confident that the cancer risk is lower than 6-in-1 million. For noncancer, the Tier 2 screening value for both cadmium and mercury was less than 1. There were no exceedances of the lead National Ambient Air Quality Standards (NAAQS).

The ecological risk screening assessment indicated all modeled points were below the Tier 1 screening thresholds based on actual and allowable emissions of arsenic, cadmium, mercury, hydrochloric acid, and hydrofluoric acid. For POM emissions, one facility did have a Tier 1 exceedance for a sediment community no-effect level by a maximum screening value of 6. There were no exceedances of the secondary lead NAAQS.

The EPA considered all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the risks posed by the OLD source category are acceptable (section IV.C.1 of proposal preamble, 84 FR 56309, October 21, 2019).

We then considered whether the existing MACT standards provide an ample margin of safety to protect public health and whether, taking into consideration costs, energy, safety, and other relevant factors, standards are required to prevent an adverse environmental effect. In considering whether the standards are required to provide an ample margin of safety to protect public health, we used the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that additional emissions controls for the OLD source category are not necessary to provide an ample margin of safety to protect public health (section IV.C.2 of proposal preamble, 84 FR 56310, October 21, 2019).

At proposal, we also evaluated the risk from whole facility emissions in order to put the risks from the source category in context. The maximum lifetime individual cancer risk based on whole facility emissions was estimated to be 2,000-in-1 million at proposal, with ethylene oxide from a non-category source driving the risk. At proposal, the maximum chronic noncancer hazard index based on whole facility emissions was estimated to be 10 (for the kidney) driven by emissions of trichloroethylene from equipment leaks in the solvent recovery operations at a plastic parts manufacturing facility, which are non-category sources.

2. How did the risk review change for the OLD source category?

We have not changed any aspect of the risk assessment since the October 21, 2019 RTR proposal (84 FR 56288) for the OLD source category.[5]

[5] We note that, due to comments, there are four fewer existing OLD affected sources now than at

Continued

3. What key comments did we receive on the risk review, and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination that no revisions were necessary under CAA section 112(f)(2) for the OLD source category. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, some commenters stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source categories in question in the risk assessment and assume that HAP without dose-response values should be included in the risk assessment. After review of all the comments received, we determined that no changes were necessary. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the OLD source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, we are not making any revisions to the existing standards under CAA section 112(f)(2).

B. Technology Review for the OLD Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the OLD source category?

We proposed, as part of our technology review for storage tanks, the following emission reduction options: (1) Revising the average true vapor pressure thresholds of the OLD storage tanks for existing sources requiring control to align with those of the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) and HON (40 CFR part 63, subpart G) where the thresholds are lower; and (2) in addition to requirements specified in option 1, requiring LDAR using EPA Method 21 with a 500 ppm leak definition for fittings on fixed roof storage tanks (*e.g.,* access hatches) that are not subject to the 95 percent by weight control requirements.

We proposed option 1 (lower average vapor pressure thresholds for control) as a development in practices, processes, and control technologies for storage tanks because it reflects requirements and applicability thresholds that are widely applicable to existing tanks that are often collocated with OLD sources and that have been found to be cost effective for organic liquid storage tanks. We did not propose revisions to the OLD NESHAP applicability thresholds for new sources, as they were already more stringent than other similar rules. Table 3 of this preamble lists the proposed capacity and average true vapor pressure thresholds for control. As shown in Table 3 of this preamble, we also proposed to clarify that condensate and crude oil are considered to be the same material with respect to OLD applicability (see section IV.E.3 of the October 21, 2019, proposal (84 FR 56288) for more details on this clarification).

TABLE 3—NESHAP STORAGE TANK CAPACITY AND ANNUAL AVERAGE TRUE VAPOR PRESSURE THRESHOLDS FOR CONTROL UNDER PROPOSED CONTROL OPTION 1

Existing/new source and tank capacity	Tank contents and average true vapor pressure of total Table 1 to subpart EEEE of 40 CFR part 63 organic HAP
Existing affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <75.7 cubic meters (20,000 gallons).	Not crude oil or condensate and if the annual average true vapor pressure of the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.
Existing affected source with a capacity ≥75.7 cubic meters (20,000 gallons) and <151.4 cubic meters (40,000 gallons).	Not crude oil or condensate and if the annual average true vapor pressure of the stored organic liquid is ≥13.1 kilopascals (1.9 psia) and <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.
Existing affected source with a capacity ≥151.4 cubic meters (40,000 gallons) and <189.3 cubic meters (50,000 gallons).	Not crude oil or condensate and if the annual average true vapor pressure of the stored organic liquid is ≥5.2 kilopascals (0.75 psia) and <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.
Existing affected source with a capacity ≥189.3 cubic meters (50,000 gallons).	Not crude oil or condensate and if the annual average true vapor pressure of the stored organic liquid is <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.
Reconstructed or new affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <37.9 cubic meters (10,000 gallons).	Not crude oil and if the annual average true vapor pressure of the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.

proposal (*i.e.,* four sources we identified as subject to the OLD NESHAP are not in fact subject to that rule). However, this change does not warrant an update to this analysis since proposal and has, therefore, not been updated.

TABLE 3—NESHAP STORAGE TANK CAPACITY AND ANNUAL AVERAGE TRUE VAPOR PRESSURE THRESHOLDS FOR CONTROL UNDER PROPOSED CONTROL OPTION 1—Continued

Existing/new source and tank capacity	Tank contents and average true vapor pressure of total Table 1 to subpart EEEE of 40 CFR part 63 organic HAP
Reconstructed or new affected source with a capacity ≥37.9 cubic meters (10,000 gallons) and <189.3 cubic meters (50,000 gallons).	Not crude oil and if the annual average true vapor pressure of the stored organic liquid is ≥0.7 kilopascals (0.1 psia) and <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate.
Reconstructed or new affected source with a capacity ≥189.3 cubic meters (50,000 gallons).	Not crude oil and if the annual average true vapor pressure of the stored organic liquid is <76.6 kilopascals (11.1 psia). The stored organic liquid is crude oil or condensate
Existing, reconstructed, or new affected source meeting any of the capacity criteria specified above.	Not crude oil or condensate and if the annual average true vapor pressure of the stored organic liquid is ≥76.6 kilopascals (11.1 psia).

We further proposed option 2 (LDAR) as an improvement in practices for storage tanks because these monitoring methods have been required by other regulatory agencies since promulgation of the OLD NESHAP to confirm the vapor tightness of tank seals and gaskets to ensure compliance with the standards. As we noted at proposal, we have observed leaks on roof deck fittings through monitoring with EPA Method 21 that could not be found with visual observation techniques (see 84 FR 56311, October 21, 2019).

Proposed option 2 applied to any fixed roof storage tank that is part of an OLD affected source that is not subject to the 95 percent by weight and equivalent controls according to the proposed thresholds above. The proposed requirements of option 2 applied to new and existing sources for storage tanks having a capacity of 3.8 cubic meters (1,000 gallons) or greater that store organic liquids with an annual average true vapor pressure of 10.3 kilopascals (1.5 psia) or greater.

Based on our review of the costs and emission reductions for each of the storage tank options, we proposed that control options 1 and 2 were cost-effective strategies for further reducing emissions from storage tanks at OLD facilities and proposed to revise the OLD NESHAP requirements for storage tanks pursuant to CAA section 112(d)(6). Other storage tank control options beyond these two, including installation of geodesic domes on external floating roof tanks, were considered during our technology review but were not found to be generally cost effective were not proposed. Details on the assumptions and methodologies for all options evaluated at proposal are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Storage Tanks Located in the Organic Liquids Distribution Source Category,* available in the docket to this action.

At proposal, our technology review for equipment leaks identified two potential developments in LDAR practices and processes: (1) Adding connectors to the monitored equipment component types at a leak definition of 500 ppm (*i.e.,* requiring connectors to be compliant with either 40 CFR part 63, subparts UU or H); and (2) eliminating the option of 40 CFR part 63, subpart TT for valves, pumps, and sampling connection systems, essentially requiring compliance with 40 CFR part 63, subpart UU or H. These two practices and processes were already in effect at sources that are often collocated with OLD NESHAP sources, such as in the National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (40 CFR part 63, subpart H). Further, we found that several OLD sources were permitted using various state LDAR regulations that incorporate equipment leak provisions at the 40 CFR part 63, subpart UU requirement level or above and that also require connector monitoring as part of the facility's air permit requirements.

For equipment leaks control option 1, we considered that the baseline was that connectors were not controlled using a LDAR program, since the current OLD NESHAP does not include them as equipment to be monitored. For equipment leaks control option 2, we considered lowering the leak definitions for valves and pumps to account for the differences in 40 CFR part 63, subpart UU from the requirements of 40 CFR part 63, subpart TT. That is, valves in light liquid service would drop from a leak definition of 10,000 parts per million by volume (ppmv) to 500 ppmv, and pumps would drop from 10,000 ppmv to 1,000 ppmv.

Based on our review of the costs and emission reductions for each of the equipment leak options, we proposed that control option 1 was a cost-effective strategy for further reducing emissions from equipment leaks at OLD facilities, especially when evaluated based on the expected reductions attributed to the emission inventory for fugitive HAP emissions, and we determined that option 2 was not cost effective for this source category. We proposed, pursuant to CAA section 112(d)(6), revising the OLD NESHAP for equipment leaks to reflect option 1. Details on the assumptions and methodologies for all options that were evaluated at proposal are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Equipment Leaks Located in the Organic Liquids Distribution Source Category,* available in the docket to this action.

As part of the technology review, we also considered options to reduce emissions from transfer racks. We evaluated the thresholds for control in the current rule against the 2012 proposed uniform standards for storage tanks and transfer operations (see Docket ID No. EPA–HQ–2010–0871) and found that the current thresholds for controls are equivalent to or more stringent than those proposed in 2012. We also considered an option that would apply 98 percent control requirements for transfer racks to large throughput transfer racks transferring organic liquid materials that are 5 percent or less by weight HAP. Considering the costs of control and the HAP emissions for these racks, this option was not found to be cost effective. Therefore, we did not propose any changes to the emission standard for transfer racks. For more information, see the *Clean Air Act Section 112(d)(6) Technology Review for Transfer Racks Located in the Organic Liquids Distribution Source Category* memorandum in the docket for this action.

Also, as part of the technology review, we evaluated developments in processes, practices, and control technologies for measuring and

controlling fugitive emissions from individual emission points at OLD sources. We proposed a fenceline monitoring program, available to existing and new OLD facilities, in lieu of implementing the proposed technology review requirements discussed above for storage tanks and equipment leaks. Provisions of the proposed fenceline monitoring program compliance alternative were described in detail in section IV.D.4 of the proposal preamble (see 84 FR 56313 through 56318, October 21, 2019).

The EPA proposed this option for fenceline monitoring for several reasons: (1) There was concern that because of the uncertainty surrounding estimated fugitive emissions from OLD operations, sources may be underestimating actual fugitive emissions from OLD operations; (2) the proposed fenceline monitoring program would provide owners or operators a flexible alternative to appropriately manage fugitive emissions of HAP from OLD operations if they were significantly greater than estimated values; and (3) the proposed frequency of monitoring time-integrated samples on a 2-week basis would provide an opportunity for owners or operators to detect and manage any spikes in fugitive emissions sooner than they might have been detected from equipment subject to annual or quarterly monitoring in the proposed amendments or from equipment that was not subject to equipment leak monitoring in the proposed rule.

The EPA proposed the fenceline monitoring alternative and considered it to be equivalent to the proposed technology review revisions it would replace. Therefore, we proposed the fenceline monitoring alternative under CAA section 112(d)(6) as an alternative equivalent requirement to address fugitive emissions from OLD sources.

2. How did the technology review change for the OLD source category?

After consideration of comments and reevaluation of our analyses at proposal, we are not finalizing the following: Requiring LDAR using EPA Method 21 with a 500 ppm leak definition for fittings on fixed roof storage tanks (*e.g.,* access hatches) that are not subject to the 95 percent by weight control requirements in the final rule; adding connectors to the monitored equipment component types at a leak definition of 500 ppm (*i.e.,* requiring connectors to be compliant with either 40 CFR part 63, subparts UU or H); or allowing the option for a fenceline monitoring program. Summaries of comments on these proposed provisions and our responses are provided below in section IV.B.3 of this preamble.

3. What key comments did we receive on the technology review, and what are our responses?

Comment: Multiple commenters opposed the proposed LDAR requirements for storage tanks that are not required to have emissions controls and are not currently subject to equipment standards that require they be enclosed and leak tight. Several commenters asserted that the EPA's estimated emission reductions for the proposed storage tank leak detection monitoring requirements overestimate emission reductions that may be attributed to these requirements. Many commenters observed that the EPA's estimated volatile organic compound (VOC) reduction of 1.1 tpy includes emissions from the conservation vent, emergency pressure relief vent, and other valves/instruments that were estimated using equipment leak emission factors from the synthetic organic chemical manufacturing industry (SOCMI) from the EPA's Protocol for Equipment Leak Emission Estimates. The commenters stated that the SOCMI emission factors were developed for process equipment containing material at pressures several times greater than an atmospheric storage tank, making their application to such tanks invalid. Commenters also stated that the costs for the proposed tank leak detection monitoring requirements are underestimated. These commenters argued that the EPA did not consider operational and safety issues that these requirements present. Several commenters noted that the language effectively requires a technician to climb up to the roof of a tank and check the entire surface, stressing that these small tanks were not built with the intention of regular roof inspections and do not have the same structural integrity as tanks that were designed with the intention of applying emission controls. One commenter generally supported the proposed revisions related to storage tanks to incorporate developments that the EPA has deemed cost effective and advocated that the EPA require further revisions to satisfy 42 U.S.C. 7412(d)(6).

Response: We have reviewed commenters' concerns and reevaluated the analyses for developing the proposed fixed roof tank LDAR requirements and agree that the emission reduction estimates serving as the basis for the proposed LDAR requirements were likely inaccurate for the smaller volume tanks and provide an overestimate of emission reductions for this control option. Coupled with concerns about additional costs that may be incurred to address safety and operational concerns, the EPA has determined that the proposed LDAR for fixed roof tanks not requiring control does not appear to be a cost-effective control option for this source category. Without appropriate data to better assess the emissions reductions and costs of this option, and given the fact that uncontrolled fixed roof tanks are allowed to breathe and would not necessarily be vapor-tight, we now recognize that the proposed requirements could potentially trigger leak protocols that we did not intend when we proposed the change. Therefore, we are not finalizing the proposed requirements that require LDAR for tanks that are currently beneath the volumetric and vapor pressure thresholds for controlling emissions under the OLD standards.

Comment: Several commenters contended that the EPA cost-effectiveness analysis for connectors was flawed, and based on the EPA's backup document, connector monitoring is not cost effective for OLD facilities and should not be finalized. The commenters stated that the backup document for the EPA's equipment leak analysis does not support the preamble conclusions. One commenter contended that the EPA overestimated the emission reductions achievable from connector monitoring by applying emissions from all equipment leaks to connectors and, thus, overestimating the emission reductions achievable. The commenter also alleged an error in the modeling file for one facility that accounted for half of the equipment leak emissions yet submitted a correction that stated there is no OLD-affected equipment at the facility. Commenters also claimed the EPA underestimated the compliance costs for connector monitoring. One commenter stated that the EPA's cost estimates failed to take into account that connectors at OLD sources tend to be more difficult to access than at refineries or other sources. The commenter further stated that for OLD facilities, for a high percentage of connectors, equipment such as a wheeled scissor-lift or hydraulic scaffold is required for monitoring access as well as a second technician for safety reasons; and additional time is required to move the equipment. Some commenters asserted that the EPA also underestimated costs by underestimating the monitoring frequency allowed under 40 CFR part 63, subpart UU, stating that the frequency should be every 4 years instead of 8 years that were used in the

cost estimates. One commenter further contended that the EPA underestimated the administrative costs (*e.g.,* training and reporting costs) for the program by incorrectly assuming no additional administrative costs for OLD facilities that are collocated with processes that already have an LDAR regulatory program. A couple of commenters also added that the industry finds and repairs leaks based on sensory methods, so requiring EPA Method 21 may not result in the level of emissions reductions that the EPA estimates.

Response: We revised our cost and emission reduction estimates and are not finalizing connector monitoring because we no longer find it to be as cost effective for this source category as originally determined. We reviewed commenters' concerns and reevaluated the analyses of emission reductions and cost for connector LDAR requirements and agree that the estimates of emission reductions that were not based on the model plant analysis that served as the basis for this proposed requirement were likely inaccurate and underestimated the cost per ton removed for this control option. Using the model plant emission reductions and costs (see EPA–HQ–OAR–2018–0074–0015), as well as updating measurement frequency, we estimate a cost effectiveness of $10,063/ton HAP. Coupled with unquantified additional costs that may be incurred to address safety concerns specific to OLD facilities, the EPA has determined that connector monitoring is not a cost-effective option for OLD sources. This determination also considers additional uncertainty, such as with the HAP content of the liquid. As a result, we are not finalizing the proposed requirements that require LDAR for connectors.

Comment: No commenters supported the fenceline provisions as proposed. Two commenters advocated that the fenceline monitoring option not be adopted in the rule. These commenters stated that because public health risks are not reduced due to the proposed enhancements to the control requirements for storage tanks and equipment leaks, the fenceline monitoring measures are unnecessary. The commenters also objected to the EPA's characterization of the fenceline monitoring program being an alternative standard since, as the commenters argued, the analytes and action levels are set based on the proposed, more stringent, control requirements and, therefore, facilities would have to install the proposed new controls anyway. These commenters also advocated that a refinery with collocated OLD sources should be allowed to incorporate OLD sources into their Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) fenceline program, because the benzene fenceline monitoring is also appropriate for collocated OLD sources. These commenters also objected to many of the provisions for implementing the monitoring, including that the compliance timeline for commencing fenceline monitoring could be difficult to meet, that the timeline for approving and monitoring new analytes is too short, that OLD sources should be able to use analyte uptake rates that are published by national and international scientific organizations rather than going through EPA validation methods, that the action level determination be revised from 5 times the method detection limit (MDL) to 3 times the MDL to be consistent with previous EPA actions, that the EPA's modeling guidance for OLD sources contains some inconsistencies with the *Human Exposure Model (HEM–3) User's Guide,* and that a 45-day timeline for corrective action is too short in some cases.

From an alternate perspective, a public health advocate stated that fenceline monitoring should be required in addition to the proposed new emission control requirements for storage tanks and equipment leaks. The commenter stated that because fenceline monitors are a technological development that can reduce emissions, then the CAA requires that both the enhanced emission controls and fenceline monitoring requirements must be adopted. The commenter also advocated for the EPA to require real-time monitoring, like Fourier transform infrared spectroscopy, which has been demonstrated to be technically feasible and has been implemented in the South Coast Air Quality Management District's Rule 1180.

Response: We are not finalizing the fenceline monitoring alternative. The fenceline monitoring alternative was proposed as an optional control requirement to complying with the proposed control requirements for storage tanks and equipment leaks that we are not finalizing as explained above. Without the final requirements for which fenceline monitoring was an alternative compliance approach, fenceline monitoring is no longer necessary.

4. What is the rationale for our final approach for the technology review?

Based on our review and consideration of information provided in comments, the proposed requirement for revising the average true vapor pressure thresholds of the OLD storage tanks for existing sources requiring control to align with those of the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC) and HON (40 CFR part 63, subpart G) where the thresholds are lower is generally acknowledged to be cost effective. However, the other proposed technology review requirements of fixed roof tank LDAR and adding connectors to the LDAR program at OLD sources have been reevaluated in light of commenters' concerns and have not been found to be cost-effective options for the OLD source category at this time. Since the pool of emission reduction requirements is smaller in the final rule than proposed, we find it highly unlikely that OLD sources would have opted to utilize the proposed fenceline monitoring program. Therefore, we are also not finalizing the fenceline monitoring alternative in the final rule.

C. Amendments Pursuant to CAA Sections 112(d)(2) and (3) for the OLD Source Category

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the OLD source category?

Under CAA section 112(d)(2) and (3), we proposed to amend the operating and monitoring requirements for flares used as APCDs in the OLD source category to ensure that OLD facilities that use flares as APCDs meet the MACT standards at all times when controlling HAP emissions. We proposed at 40 CFR 63.2380 to directly apply the petroleum refinery flare rule requirements in 40 CFR part 63, subpart CC to flares in the OLD source category with certain clarifications and exemptions. We proposed to retain the General Provisions requirements of 40 CFR 63.11(b) that flares used as APCDs in the OLD source category operate pilot flame systems continuously and that flares operate with no visible emissions (except for periods not to exceed a total of 5 minutes during any 2 consecutive hours) when organic HAP emissions are routed to the flare. We also proposed to consolidate measures related to flare tip velocity and new operational and monitoring requirements related to the combustion zone gas. We proposed to eliminate the cross-references to the General Provisions and instead cross-reference 40 CFR part 63, subpart CC.

The EPA also proposed to clarify that PRDs on vapor return lines of a vapor balancing system are also subject to the vapor balancing system requirements of 40 CFR 63.2346(a)(4)(iv). We requested comment on several issues related to PRDs, including whether work practices should be adopted for PRDs that are not

part of a vapor balancing system, whether work practices similar to those promulgated for petroleum refineries in 40 CFR part 63, subpart CC are necessary and appropriate for OLD operations, information on the nature of non-vapor balancing system PRDs, and whether monitoring devices should be required to be installed and operated to ensure continuous compliance with the standard at 40 CFR 63.2346(a)(4)(iv) that no PRD shall open during loading or as a result of diurnal temperature changes.

More information regarding our proposal to address CAA sections 112(d)(2) and (3) can be found in the proposed rule (84 FR 56302, October 21, 2019). Further details regarding comments received and the EPA's responses are discussed below.

2. How did the revisions pursuant to CAA sections 112(d)(2) and (3) change since proposal?

We are finalizing some clarifying edits to the overlap provisions of 40 CFR 63, subpart EEEE to address commenter concerns with overlap for flare provisions in the OLD source category with other regulations. Further, commenters noted some clarifying edits to the simplified requirements allowed in 40 CFR 63.670(j). We have revised the proposed requirements to address these concerns, which are discussed in section 8.0 of the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action.

We received comments that owners or operators have historically considered degassing emissions from shutdown of storage tanks to be covered by their SSM plans per the definition of "Shutdown" included at 40 CFR 63.2406 and that there are several OLD affected sources that are subject to standards for tank degassing in their air permits. We assessed the MACT floor level of control and, as a result, are adding a standard for storage tank degassing for storage tanks subject to the control requirements in Tables 2 and 2b to 40 CFR part 63, subpart EEEE.

We are also finalizing the PRD provisions as proposed. Comments on the PRD provisions and our responses are discussed in section 9.0 of the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action.

3. What key comments did we receive on the proposal revisions pursuant to CAA sections 112(d)(2) and (3), and what are our responses?

Comment: Commenters stated that the proposal to eliminate the SSM provisions makes it unclear as to what the OLD NESHAP compliance obligations are related to fixed roof tank degassing. The commenters added that because tank degassing is included in the shutdown definition, facilities have historically considered fixed roof tank degassing activities to be covered by their SSM plan, which includes procedures for minimizing emissions during shutdown activities. The commenters stated that the EPA is proposing to remove the requirement to implement and follow an SSM plan and adding a new general duty clause at 40 CFR 63.2350(d) that would require facilities to operate and maintain any affected source, including air pollution control device and monitoring equipment, at all times to minimize emissions. Commenters further asserted that at some point it is no longer reasonable or even technically feasible to continue to try to control the dilute vapors using the normal control device or by routing to a fuel gas system or to a process. The commenters noted that some facilities are subject to standards for fixed roof tank degassing in their permits. The commenters supported the Texas requirements for fixed roof tank degassing to represent what the average of the best performers are doing to minimize emissions from fixed roof tank degassing. The commenters concluded that these requirements state that fixed roof storage tanks otherwise required to be controlled must be degassed to a control device or controlled recovery system until the VOC concentration is less than 10,000 ppmv or 10 percent of the lower explosive level (LEL). One commenter also requested that the EPA clarify that once the atmospheric release criterion is met, vapors may also be released after tank entry. The commenter stated that for many tanks, there are sludges in the bottom of the tank or on the walls that may release some hydrocarbon vapors as they are shoveled or hydroblasted off the tank floor and/or walls.

Response: We agree that a standard is reasonable for tank degassing and have included it in the final rule. With the removal of SSM requirements, a standard specific to storage tank degassing did not exist. We agree with the commenters that storage tank degassing is similar to maintenance vents (*e.g.,* equipment openings) found in other rules, and that there must be a point in time when the storage tank can be opened and any emissions vented to the atmosphere. As such, we reviewed available data to determine how the best performers are controlling storage tank degassing emissions.

We, and commenters, are aware of three state or air quality management district provisions regarding storage tank degassing, two in the state of Texas and the third for the South Coast Air Quality Management District (SCAQMD) in California. Texas has degassing provisions in the Texas Administrative Code (TAC) (30 TAC Chapter 115, Subchapter F, Division 3) and through permit conditions (as noted by commenters), and SCAQMD has provisions in Rule 1149. The TAC requirements are the least stringent (35,000 ppmv as methane or 50 percent of the LEL), and the Texas permit conditions (10,000 ppmv or 10-percent LEL) and SCAQMD Rule 1149 (5,000 ppmv as methane) are equivalent. The Texas permit conditions and SCAQMD Rule 1149 are considered equivalent because 5,000 ppmv as methane equals 10 percent of the LEL for methane. OLD facilities located in Texas are subject to the permit conditions, and 3 OLD facilities are subject to the SCAQMD rule. Of the 173 currently operating (*i.e.,* existing) OLD facilities, 44 are in Texas. The Texas and California requirements are the most stringent we are aware of and; therefore, we conclude that those requirements reflect what the best performers in the OLD source category have implemented for storage tank degassing. Commenters also confirm this conclusion.

We reviewed the Texas permit conditions for key information that could be implemented into the form of a standard for storage tank degassing. The conditions require control of degassing emissions until the VOC concentration of the vapor is less than 10,000 ppmv or 10 percent of the LEL. We have used the 10 percent of the LEL in similar requirements in the Petroleum Refineries NESHAP (see 40 CFR 63.643(c) for example) and have, therefore, finalized these 10-percent LEL requirements for tanks requiring control at 40 CFR 63.2346(a)(6).

We calculated the impacts due to controlling storage tank degassing emissions by evaluating the population of estimated storage tanks subject to control according to the requirements in Tables 2 and 2b of 40 CFR part 63, subpart EEEE that are not located in Texas or in SCAQMD. Storage tanks in the OLD source category in Texas and SCAQMD would already be subject to the degassing requirements being finalized, and there would not be

additional costs or emissions reductions for these facilities. Based on commenter statements, tanks are degassed for inspection typically every 10 years. Based on this average and the population of storage tanks that are not in Texas or in SCAQMD, we estimate 89 storage tank degassing events would be subject to control each year. Controlling storage tank degassing would reduce HAP emissions by 74 tpy, with a total national annual cost of $418,656. See the technical memorandum titled *Tank Degassing Analysis for the Organic Liquids Distribution (Non-Gasoline) Source Category Final Rule,* which is available in Docket ID No. EPA–HQ–OAR–2018–0074 for details on the assumptions and methodologies used in this analysis.

We considered whether there are technically feasible options more stringent than the MACT floor requirements but are not aware of storage tank degassing provisions beyond those discussed above for Texas and SCAQMD. Therefore, no options more stringent than the MACT floor were evaluated. We also confirm that once the 10-percent LEL criterion is met, tank vapors may be vented to the atmosphere even after tank entry.

Comment: Several commenters contended that the assumptions the EPA used in developing the flare control cost and emission reduction estimates are not realistic. The commenters indicated that several of the EPA's assumptions laid out in the proposal preamble are incorrect for most OLD NESHAP flares. The commenters argued that the EPA's basis for the flare cost estimates is that OLD NESHAP operations are steady enough that compositions and flow rates do not change, so continuous instrumentation is not needed for compliance (except for continuous temperature and pressure monitoring), and that composition sampling and engineering estimates are sufficient. The commenters insisted this basis is incorrect. One commenter made the following points:

- Although some organic liquids have relatively constant composition as the EPA states, most OLD NESHAP flares will be receiving vapors from multiple OLD sources simultaneously, including tank vapors, loading vapors and likely small amounts from equipment leak vapors. The commenter asserted that in order to estimate the composition of the flare waste gas and the net heating value of the flare vent gas (NHVvg), facilities would need accurate flow information on each stream and composition information for those streams that have variable compositions;
- transfer operations generate vapors from tank cars, trucks, or containers loading (unloading emissions show up as tank emissions and barge and ship loading are not regulated by the OLD NESHAP though these may be routed to the same flare as OLD regulated emissions). The commenter noted the composition of those vapors will vary if the tank car, truck, or container is filled with vapors of another type (*e.g.,* air, nitrogen, other organics);
- storage tank emission rates vary significantly as a function of stored liquid temperature and changes in tank levels. The commenter pointed out that if the tank level is increasing due to material entering the tank, the emission rate will be much higher than the rate due to temperature changes; if the stored material temperature or level is dropping, air or inert gas will be drawn into the tank;
- loading emission rates vary as the backpressure varies as the receiving volume fills with liquid and/or the backpressure from the vapor collection system changes;
- the commenter urged that reasonably good flow measurements for each of these flows would be needed to estimate the total waste gas flow to an OLD NESHAP flare and would be required for every source going to that flare, not just the OLD NESHAP sources. The commenter noted that because of the impossibility of obtaining all the required individual flow information, the Petroleum Refineries NESHAP provisions focus only on measuring the total flow at the flare. The commenter insisted that because of the range of flows, this requires a sophisticated wide range meter such as a sonic flow meter; and
- the commenter stressed that assist steam and supplemental fuel demands vary widely as flare conditions change, and, thus, would not be amenable to estimation or using engineering estimates even though the gas molecular weight is known.

The commenter stated that due to the above, facilities must have at least continuous flow rate monitoring of the waste gas, supplemental fuel, and assist steam in order to allow control on a 15-minute basis, and stressed that, in most cases, continuous monitoring of waste gas composition is also needed. The commenter also urged that due to the broad range of potential flow rates, additional controls (typically split range controllers) would be needed to rapidly adjust assist gas and supplemental fuel to meet the NHVcz requirements on a 15-minute basis. The commenter contended that the EPA's engineering estimate approach using temperature and pressure is, therefore, untenable, and flare cost basis must consider that OLD flares will have to install the full range of continuous monitoring and control instrumentation that was required for the Petroleum Refineries NESHAP flares, with perhaps a few limited exceptions. One commenter also affirmed that although the compositional variability of flared gas streams is less than that of refineries, facilities will opt to conduct continuous monitoring to reduce incremental supplemental fuel costs, and are likely to install flow meters instead of relying on pressure and temperature monitoring systems and engineering calculations.

One commenter added that because of the typically remote location of OLD NESHAP-only flares, there are likely to be large additional costs compared to Petroleum Refineries NESHAP to add new utilities, analyzer houses, data systems, and control room instrumentation. The commenter, therefore, concluded that even if the EPA's assumption of only continuous temperature and pressure monitoring were correct, a $190,000 investment would unlikely be enough to instrument one flare, much less 27. The commenter remarked that use of the Petroleum Refineries NESHAP cost estimate prorated to the EPA's estimated 27 OLD NESHAP flares would yield an annualized OLD cost of $2.4 million and a cost effectiveness of $3,673/ton of VOC reduced and $37,182/ton of HAP reduced.

Another commenter provided a summary of information collected from member facilities on approximately 80 flares on the estimated cost impacts of flare requirements in the EPA's proposed revisions to the Ethylene MACT standards, which the commenter contended are essentially the same as the proposed revisions in the OLD NESHAP. The commenter asserted that for the Ethylene MACT, member companies indicated they would need to install at least two new flares due to the potential for existing flares to exceed the number of visible emissions events allowed by the emergency flaring provisions during upset conditions; at least one gas chromatograph in order to comply with the proposed monitoring requirements; upgraded natural gas controls for at least 23 flares (to meet the more stringent minimum flare gas net heating value) and flow monitoring; and additional costs based on the estimated amount of supplemental fuel firing. The commenter estimated that, based on this information, the average capital and annual costs to implement the changes applicable to OLD flares (*i.e.,* excluding the emergency flaring management work

practices) are $509,000 and $725,000 per flare, with an estimated annual average cost of incremental supplemental fuel of $655,000 per flare. The commenter concluded that with their estimated costs and the EPA's estimate of 64 tpy of HAP reductions, the cost effectiveness of the proposed amendments would be approximately $306,000/ton of HAP reduced. The commenter also questioned the validity of the EPA's proposed HAP reductions, stating that the EPA's basis for its 64 tpy estimate of reduced HAP emissions is simply an assumption that all OLD flares are operating with a 90-percent combustion efficiency, and that the Agency has not provided data to support this assumption.

One commenter estimated that the cost to install all required instrumentation is in the $600,000 to $800,000 range for a single flare.

Several commenters stated that, because costs for the OLD NESHAP flare instrumentation and controls will likely greatly exceed the proposed costs, the proposed revised flare requirements are not cost effective and should not be finalized.

Response: We do not agree with the comments that the proposed revisions to the flare requirements should not be finalized. We proposed the flare amendments under the authority of CAA sections 112(d)(2) and (3) to ensure that flares used to control OLD emission sources are meeting the combustion efficiency requirements that are the basis for our original rule. In proposing these amendments, we did not use the authority of CAA 112(d)(6) and did not consider costs. Since the revisions ensure continuous compliance with the MACT standard under CAA sections 112(d)(2) and (3), costs are not a factor considered for these revisions. We determined the flare operating and monitoring requirements were not adequate to ensure that 98-percent control efficiency can be met for a flare at all times. Regarding the commenter's arguments that the emission reductions assumed to be a result of the proposed flaring provisions are overstated, the 90-percent assumption was illustrative of potential emissions in worst case situations, but since cost and, thus, cost effectiveness are not considerations when determining the MACT floor, we did not rely on estimated HAP emission reductions in making our decision to propose or finalize these requirements. We did estimate costs in order to provide the resulting impacts, but we are not revising the costs as a result of this comment, especially as the costs presented by the commenter appear to have been developed with Ethylene MACT flares in mind. As acknowledged by several commenters, OLD flare operation and monitoring are likely simpler than ethylene flares, and some commenters' three 1-hour test run suggestion for demonstrating compliance are essentially equivalent to the grab sampling requirements in 40 CFR 63.670(j)(6) and they could be further refined to facilitate easier use of simplified monitoring provisions. We have revised those requirements to address concerns of petitioning to use the grab sample approach, which further streamlines these requirements. If, as the commenter suggests, their facilities opt to use more sophisticated continuous monitoring instrumentation instead of the proposed grab sample/worst case approach, they have the flexibility to do so. However, we disagree that cost estimates based on Ethylene Production source category flares are appropriate for OLD. We also note that the commenter applies a supplemental natural gas cost approximately 18 times higher than our estimate (if supplemental natural gas is needed to meet NHVcz limits for the flare) for their OLD flare cost assessment. This natural gas cost seems excessive, especially considering that commenters did not discuss adjusting other flare parameters instead of using such a large amount of natural gas.

4. What is the rationale for our final approach and final decisions pursuant to CAA sections 112(d)(2) and (3)?

As we discussed above, we proposed the flare amendments under the authority of CAA sections 112(d)(2) and (3) to ensure flares used to control OLD emission sources are meeting the combustion efficiency requirements that are the basis for our original rule and necessary to ensure sources are complying with the MACT level of control. For this reason, we did not consider costs in proposing these requirements and are generally finalizing these amendments as proposed. We did, however, make some revisions to the proposed requirements at 40 CFR 63.2380 to further streamline the requirements of 40 CFR 63.670(j) to facilitate the ability of sources to use the grab sample approach for determining net heating value. In addition, and as discussed earlier, we also amended the overlap provisions of 40 CFR 63.2396 to clarify applicability for flares subject to the requirements of the OLD NESHAP and to other NESHAP requirements.

Tank degassing is considered a shutdown activity and historically has been considered by OLD sources to be covered under their SSM plan and permit conditions. With the removal of SSM provisions that are not consistent with the requirement that the standards apply at all times, the EPA assessed the level of control the best performing OLD sources are using for tank degassing events. During this assessment and based on comments, air permit requirements for OLD sources in Texas require degassing to a 10-percent LEL or 10,000 ppm prior to opening the tank to the atmosphere, and these requirements represent the best level of control for tank degassing events for OLD sources and those in California and Texas are already complying with.

In this action, we are including provisions at 40 CFR 63.2346(a)(6) that require tanks that are subject to control to continue to route degassing vapors to a device equivalent to the control (*i.e.,* 95-percent organic HAP reduction, back to process or fuel gas system) until the vapor within the storage tank has reached 10 percent of the LEL.

The PRD definition and provisions that were proposed are being finalized. No additional work practice provisions or requirements are being added to the PRD requirements as a result of commenter suggestions, and the clarifications proposed in 40 CFR 63.2346(a)(iv) and the definition in 40 CFR 63.2406 are being made final. We note that we received several comments on these provisions and clarification on what constitutes a deviation for these types of devices within the OLD NESHAP. We have responded to these comments in section 9.0 of the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action.

D. Amendments Addressing Emissions During Periods of SSM

1. What amendments did we propose to address emissions during periods of SSM?

We proposed amendments to the OLD NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 56318–56322, October 21, 2019).

2. How did the SSM provisions change since proposal?

We are finalizing the SSM provisions proposed (84 FR 56318, October 21, 2019) with some modifications, including: Revisions to the proposed provisions of 40 CFR 63.2378(e) for periods of planned routine maintenance

of the control device to allow tank breathing losses to be consistent with our intent at proposal (see 84 FR 56323, October 21, 2019); revisions to 40 CFR 63.2346(l) to further clarify the SSM requirements in referenced subparts (such as 40 CFR part 63, subparts SS, TT, and UU) that are no longer applicable; and we have extended the effective date of removing the portion of the ''deviation'' definition in 40 CFR 63.2406 that addresses SSM periods as being applicable 3 years after publication of the final rule in the **Federal Register** to provide a consistent compliance date due to the addition of the tank degassing requirements discussed in section IV.C of this preamble.

3. What key comments did we receive on the SSM revisions and what are our responses?

We received several comments related to our proposed revisions to the SSM provisions. Commenters discussed issues related to the removal of the 240-hour exemption for planned maintenance of control devices, the need for tank degassing requirements with the revision of SSM provisions (as discussed in more detail in section IV.C of this preamble), and other miscellaneous issues pertaining to the SSM provisions of 40 CFR part 63, subparts SS, TT, and UU requirements referred to within 40 CFR part 63, subpart EEEE. These comments and our responses are available in section 10.1 of the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action. As discussed above, we have made some changes to the revisions to the SSM requirements in the final rule to address the significant issues brought forth by commenters.

4. What is the rationale for our final approach and final decisions to address emissions during periods of SSM?

We evaluated all comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that these amendments remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule (84 FR 56318–56322, October 21, 2019). Additional revisions to these amendments based on comments received are discussed in further detail in section 10.1 of the *Summary of Public Comments and Responses for Risk and Technology Review for Organic Liquids Distribution (Non-Gasoline),* available in the docket for this action.

E. Technical Amendments to the MACT Standards

1. What other amendments did we propose for the OLD source category?

We proposed that owners or operators of OLD facilities submit electronic copies of required performance test reports, performance evaluation reports, compliance reports, NOCS reports, and fenceline monitoring reports through the EPA's CDX using CEDRI. Performance test results must be collected using test methods that are supported by the EPA's ERT as listed on the ERT website [6] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in PDF using the attachment module of the ERT. Similarly, performance evaluation results of CEMS measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT. We also proposed that NOCS reports must be submitted as a PDF upload in CEDRI.

For compliance reports and fenceline monitoring reports, we proposed that owners or operators use the appropriate spreadsheet template to submit information to CEDRI.

Additionally, we proposed two broad circumstances in which we may provide extension to these requirements. We proposed that an extension may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports. We also proposed that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

Additionally, we proposed required testing and recordkeeping for emission sources not requiring control to confirm the annual average true vapor pressure at least every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to ensure the tank's applicability and confirm that it should not be subject to the 95-percent control requirements of the regulation. Further, we proposed a requirement that the contents of tanks that are claimed to be not subject to the OLD NESHAP because they contain less than 5-percent HAP (and, therefore, do not meet the definition of ''Organic liquids'' within the OLD NESHAP) should be tested every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to confirm that the tank is not storing ''organic liquids'' and, therefore, is not subject to the rule. We proposed the revision of 40 CFR 63.2354(c) to add the voluntary consensus standard (VCS), ATSM D6886–18, ''Standard Test Method for Determination of the Weight Percent Individual Volatile Organic Compounds in Waterborne Air-Dry Coatings by Gas Chromatography,'' as another acceptable method for the determination of HAP content of an organic liquid. We are also finalizing the replacement of method ASTM D2879 with method ASTM D6378–18a as one of the acceptable methods for the determination of vapor pressure.

Finally, we proposed several revisions to clarify text or correct typographical errors, grammatical errors, and cross-reference errors in 84 FR 56323 through 56324 and Table 9 of the proposal.

2. How did the other amendments for the OLD source category change since proposal?

We are not finalizing the proposed requirements for periodic testing and recordkeeping for the annual average true vapor pressure for those tanks not subject to the 95 percent control requirements of the regulation. Further, we are not finalizing, as proposed, a requirement that the contents of tanks that are claimed to be not subject to the OLD NESHAP because they contain less than 5 percent HAP (and, therefore, do not meet the definition of ''Organic liquids'' within the OLD NESHAP) should be tested every 5 years, or with a change of commodity in the tank's contents, whichever occurs first, to confirm that the tank is not storing ''organic liquids'' and, therefore, is not subject to the rule. We are, however, finalizing the revision of 40 CFR 63.2354(c) to add ASTM D6886–18, ''Standard Test Method for Determination of the Weight Percent Individual Volatile Organic Compounds in Waterborne Air-Dry Coatings by Gas Chromatography,'' as another acceptable method for the determination of HAP content of an organic liquid. We are also finalizing the replacement of method ASTM D2879 with method ASTM D6378–18a as an acceptable method for determination of whether a total vapor pressure (and, therefore, the sum total of Table 1 to 40 CFR part 63, subpart EEEE

[6] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

HAP) is below the threshold level requiring control for a storage tank.

The proposed electronic reporting requirements and the technical and editorial corrections in Table 9 of the proposal (see 84 FR 56324, October 21, 2019) have not changed, aside from some additional editorial changes based on comments and the removal of the fenceline monitoring alternative electronic reporting. Aside from these noted differences from proposal, we are finalizing the electronic reporting requirements and technical and editorial corrections.

3. What key comments did we receive on the other amendments for the OLD source category and what are our responses?

Comment: Several commenters objected to the proposed requirement in 40 CFR 63.2343(b)(5) and (6) that facilities conduct periodic vapor pressure testing or obtain vapor pressure data from the organic liquid supplier to demonstrate that the annual average true vapor pressure of the organic liquid in each storage tank is below control thresholds. Commenters argued that the addition of these two testing requirements is burdensome and unnecessary, results in no HAP emissions reductions, goes beyond what other NESHAP require for storage tanks, and should not be finalized. Several commenters further objected to the proposed requirement to use test method ASTM D6378–18a for storage tank vapor pressure analyses. Commenters stated that the requirement that test method ASTM D6378–18a must be used is impracticable and conflicts with the wording of the control thresholds that are based on the annual average true vapor pressure of the total Table 1 HAP, not the total annual average true vapor pressure of the liquid, which is the measured result of ASTM D6378–18a. One commenter stated that periodic testing is not needed, since inbound organic liquids HAP contents, and, thus, calculated HAP partial pressures, are available from vendor and in-house analyses and outbound materials are tested in developing the required safety data sheet (SDS) for that material. Several commenters also noted that other NESHAP have storage tank vapor pressure thresholds for control but do not require regular testing to confirm vapor pressure (*e.g.,* 40 CFR part 63, subparts YY, GGG, and OOO). Another commenter further argued that the requirement to conduct periodic negative applicability determinations is precedent setting and is not warranted. The commenter stated that the EPA has not provided justification for the added requirement or provided an indication with supporting data of the "problem" the Agency is trying to resolve. The commenter further argued that facilities already have general obligations under title V 5-year renewals to ensure permits include all requirements applicable to a facility.

Response: The EPA acknowledges ASTM D6378–18a measures total vapor pressure and not HAP vapor pressure, therefore, we are not finalizing the periodic vapor pressure testing requirements due to lack of an appropriate method to measure only HAP vapor pressure. However, facilities may still use ASTM D6378–18a as a method for excluding tanks from control due to the fact that if the total vapor pressure of the liquid is less than the threshold for control, then the HAP vapor pressure (which is a subset of the total vapor pressure) would also be under the threshold. The EPA also acknowledges that the periodic 5-percent HAP content testing requirement creates a potential scenario of requiring sources to perform regular non-applicability determinations for all tanks at major sources that could be duplicative, considering the provisions of the OLD NESHAP are applied through a title V permit requirement, and that there are 5-year renewal obligations for title V permits. To be in compliance with their title V permit, OLD affected sources have an ongoing obligation to ensure that tanks storing organic liquids with greater than 5 percent HAP are meeting the OLD NESHAP requirements. Therefore, we are not finalizing periodic HAP content testing. Facilities will still be able to use Method 311, voluntary consensus standards, SDS, and certified product data sheets, and calculations as a means of determining applicability.

4. What is the rationale for our final approach and final decisions for the other amendments for the OLD source category?

After evaluating the comments on the proposed periodic HAP and vapor pressure testing requirements that were proposed, we are not finalizing these requirements. As discussed above, we agree that there are not any methods suitable to determine the organic HAP partial pressure of a liquid, and that these requirements could create a duplicative requirement scenario requiring sources to establish non-applicability although a similar obligation already exists in their title V permit. As we also explain, we have included ASTM 6378–18a in the final rule as a method suitable for use for excluding tanks from control. If the total vapor pressure of the liquid measured using ASTM 6378–18a is less than the vapor pressure threshold for control, then the liquid being stored would, therefore, also be below the threshold for control.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

There are 173 facilities currently operating OLD equipment subject to the OLD NESHAP and four new facilities under construction. A complete list of facilities that are currently subject to the OLD NESHAP is available in appendix A of the memorandum, *National Impacts of the 2020 Risk and Technology Review Final Rule for the Organic Liquids Distribution (Non-Gasoline) Source Category,* which is available in the docket for this action.

The EPA projects four new liquids terminals and one major terminal expansion that would be subject to the OLD NESHAP. These new sources are not included in the risk assessment modeling effort but are included in the impacts analysis.

B. What are the air quality impacts?

The risk assessment model input file identifies approximately 2,400 tons of HAP emitted per year from equipment regulated by the OLD NESHAP. The predominant HAP compounds include toluene, hexane, methanol, xylenes (mixture of o, m, and p isomers), benzene, styrene, methyl isobutyl ketone, methylene chloride, methyl tert-butyl ether, and ethyl benzene. More information about the baseline emissions in the risk assessment model input file can be found in appendix 1 of the memorandum, *Residual Risk Assessment for the Organic Liquids Distribution (Non-Gasoline) Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action. This final action would reduce HAP emissions from OLD NESHAP sources. The EPA estimates HAP emission reductions of approximately 186 tpy based on our analysis of the actions described in sections IV.B and C of this preamble. More information about the estimated emission reductions of this final action can be found in the document, *National Impacts of the 2020 Risk and Technology Review Final Rule for the Organic Liquids Distribution (Non-Gasoline) Source Category,* which is available in the docket for this action.

C. What are the cost impacts?

We estimate the total capital costs of these final amendments to be approximately $2.5 million and the total annualized costs (including recovery credits) to be $1.8 million per year (2016$). We also estimate the present value of the costs is $8.5 million at a discount rate of 3 percent and $7.1 million at 7 percent (2016$). Calculated as an equivalent annualized value, which is consistent with the present value of the costs, the costs are $1.1 million at a discount rate of 3 percent and $0.9 million at a discount rate of 7 percent (2016$). The annualized costs include those for operating and maintenance, and recovery credits of approximately $170,000 per year from the reduction in evaporative emissions from storage tanks. To estimate savings in chemicals not being emitted (*i.e.,* lost) due to the reduction in evaporative emissions, we applied a recovery credit of $900 per ton of VOC to the VOC emission reductions in the analyses. The $900 per ton recovery credit has historically been used by the EPA to represent the variety of chemicals that are used as reactants and produced at synthetic organic chemical manufacturing facilities.[7] At proposal, we solicited comment on the availability of more recent information to potentially update the value used in this analysis to estimate the recovery credits, but received none. We used an interest rate of 5 percent to annualize the total capital costs. These estimated costs are associated with amendments of the requirements for storage tanks, LDAR, flares, and transfer racks. Table 4 of this preamble shows the estimated costs for each of the equipment types. Detailed information about how we estimated these costs are described in the following documents available in the docket for this action: *National Impacts of the 2020 Risk and Technology Review Final Rule for the Organic Liquids Distribution (Non-Gasoline) Source Category,* and *Economic Impact and Small Business Analysis for the Final Organic Liquids Distribution (Non-Gasoline) (OLD) Risk and Technology Review (RTR) NESHAP.*

TABLE 4—SUMMARY OF COSTS OF FINAL AMENDMENTS BY EQUIPMENT TYPE, IN MILLIONS

[2016$]

Equipment type	Capital cost	Total annualized cost (without annual recovery credits)	Annual recovery credits	Total annualized cost (with annual recovery credits)
Storage tanks	2.28	0.29	0.17	0.12
Tank Degassing	0.00	0.42	N/A	0.42
Flares	0.19	0.36	N/A	0.36
Deletion of 240-hr exemption for control device maintenance during transfers (Transfer racks)	0.00	0.88	N/A	0.88
Total	*2.47*	*1.95*	*0.17*	*1.78*

D. What are the economic impacts?

The EPA conducted economic impact analyses for the amendments to the final rule, as detailed in the memorandum titled *Economic Impact and Small Business Analysis for the Final Organic Liquids Distribution (Non-Gasoline) (OLD) Risk and Technology Review (RTR) NESHAP,* which is available in the docket for this action. The economic impacts of the amendments to the final rule are calculated as the percentage of total annualized costs incurred by affected parent owners to their annual revenues. This ratio provides a measure of the direct economic impact to ultimate parent owners of OLD facilities while presuming no impact on consumers. We estimate that none of the ultimate parent owners affected by this final action will incur total annualized costs of 0.4 percent or greater of their revenues. This estimate reflects the total annualized costs without product recovery as a credit. Thus, these economic impacts are low for affected companies and the industries impacted by this final action, and there will not be substantial impacts on the markets for affected products. The costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The EPA did not monetize the benefits from the estimated emission reductions of 186 tpy of HAP associated with this action. However, we expect this action will result in benefits associated with HAP emission reductions and lower risk of adverse health effects in communities near OLD sources.

While not explicitly calculated, we expect reductions in MIR, population exposed to a cancer risk of greater than or equal to 1-in-1 million, and in other risks metrics such as incidence, acute risk, multipathway risks, and ecological risks from the estimated emission reductions.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the OLD source category across different demographic

[7] U.S. EPA. 2007. Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries (*https://www.federalregister.gov/documents/2007/07/09/E7-13203/standards-of-performance-for-equipment-leaks-of-voc-in-the-synthetic-organic-chemicals-manufacturing*). Docket ID No. EPA–HQ–OAR–2006–0699.

groups within the populations living near facilities.

At proposal, we noted that our analysis of the demographics of the population with estimated risks greater than 1-in-1 million indicates potential disparities in risks between demographic groups, including the African American, Hispanic or Latino, Over 25 Without a High School Diploma, and Below the Poverty Level groups. In addition, the population living within 50 km of OLD facilities has a higher percentage of minority, lower income, and lower education people when compared to the nationwide percentages of those groups. However, acknowledging these potential disparities, the risks for the source category were determined to be acceptable, and emissions reductions from the final rule revisions will benefit these groups the most.

The methodology and the results of the demographic analysis [8] are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Organic Liquids Distribution (Non-Gasoline) Source Category Operations,* that is available in the docket for this action.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the risk report, *Residual Risk Assessment for the Organic Liquids Distribution (Non-Gasoline) Source Category in Support of the 2020 Risk and Technology Review Final Rule,* available in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1963.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that change the reporting and recordkeeping requirements for OLD operations. The amendments also require electronic reporting of performance test results and reports and compliance reports. The information will be collected to ensure compliance with 40 CFR part 63, subpart EEEE. The total estimated burden and cost for reporting and recordkeeping due to these amendments are presented below and are not intended to be cumulative estimates that include the burden associated with the requirements of the existing 40 CFR part 63, subpart EEEE.

Respondents/affected entities: Owners or operators of OLD operations at major sources of HAP are affected by these amendments. These respondents include, but are not limited to, facilities having NAICS codes: 4247 (Petroleum and Petroleum Products Merchant Wholesalers), 4861 (Pipeline Transportation of Crude Oil), and 4931 (Warehousing and Storage).

Respondent's obligation to respond: Mandatory under sections 112 and 114 of the CAA.

Estimated number of respondents: 177 facilities.

Frequency of response: Once or twice per year.

Total estimated burden: 4,111 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $570,132 (per year), which includes $154,000 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. Of the 90 ultimate parent companies that are subject to this action, ten of them are small according to the Small Business Administration's small business size standards. None of the affected small parent companies are expected to have compliance costs of more than 0.4 percent of their sales. For more information on the analysis, see the *Economic Impact and Small Business Analysis for the Final Organic Liquids Distribution (Non-Gasoline) (OLD) Risk and Technology Review (RTR) NESHAP,* available in the docket for this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the OLD facilities that have been identified as being affected by this final action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental

[8] We note that, based on public comments, there are four fewer existing OLD affected sources now than at proposal. However, this change does not warrant an update to this analysis since proposal and has, therefore, not been updated.

health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. As discussed in the preamble of the proposal, the EPA conducted searches for the OLD NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted VCS organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 21, 22, 25, 25A, 26, 26A, and 27 of 40 CFR part 60, appendix A and EPA Methods 301, 311, 316, 320, 325A, and 325B of 40 CFR part 63, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 of appendix A to 40 CFR part 63 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods.

The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCSs were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 21, 22, 27, and 316.

Seven VCSs were identified as an acceptable alternative to EPA test methods for the purposes of this rule:

(1) The VCS ANSI/ASME PTC 19.10–1981 Part 10, "Flue and Exhaust Gas Analyses," is an acceptable alternative to EPA Method 3B manual portion only and not the instrumental portion. Therefore, we are adding this standard as a footnote to item 1.a.i.(3) of Table 5 to 40 CFR part 63, subpart EEEE and incorporate this standard by reference at 40 CFR 63.14(e)(1). ANSI/ASME PTC 19.10–1981 Part 10 specifies methods, apparatus, and calculations that are used in conjunction with Performance Test Codes to quantify the gaseous constituents of exhausts from stationary combustion sources. The gases covered include oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons.

(2) The VCS ASTM D6420–18, "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry." This ASTM procedure has been approved by the EPA as an alternative to EPA Method 18 only when the target compounds are all known, and the target compounds are all listed in ASTM D6420 as measurable. ASTM D6420–18 uses a direct interface gas chromatograph/mass spectrometer to identify and quantify 36 VOC (or a subset of these compounds), however, ASTM D6420–18 should not be specified as a total VOC method. Therefore, we are adding this standard as a footnote to Table 5 to 40 CFR part 63, subpart EEEE and incorporate this standard by reference at 40 CFR 63.14(e)(93). We are also updating reference to the older version of this standard (*i.e.,* ASTM D6420–99 (Reapproved 2004) at 40 CFR 63.2354(b)(3) to the new 2018 version and are removing reference to the old version of this standard at 40 CFR 63.14(e)(90) for use in the OLD NESHAP.

(3) The VCS ASTM D6735–01(2009), "Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources Impinger Method," is an acceptable alternative to EPA Method 26 or EPA Method 26A from Mineral Calcining Exhaust Sources, which is specified at 40 CFR part 63, subpart SS, which is cited in the OLD NESHAP. For further information about the EPA's decision to allow the use of this VCS in 40 CFR part 63, subpart SS, see the EPA's Ethylene Production RTR proposed amendments in Docket ID No. EPA–HQ–OAR–2017–0357. This standard is not being incorporated by reference.

(4) The VCS California Air Resources Board (CARB) Method 310, "Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products," is an acceptable alternative to EPA Method 311. However, we are not specifying use of this method in the OLD NESHAP because CARB Method 310 is designed to measure the contents of aerosol cans and would not be well suited for organic liquid samples regulated under the OLD NESHAP. This standard is not being incorporated by reference.

(5) The VCS ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," is an acceptable alternative to EPA Method 320. In the September 22, 2008, NTTAA summary, ASTM D6348–03(2010) was determined equivalent to EPA Method 320 with caveats. ASTM D6348–12e1 is a revised version of ASTM D6348–03(2010) and includes a new section on accepting the results from direct measurement of a certified spike gas cylinder, but still lacks the caveats we placed on the ASTM D6348–03(2010) version. The VCS ASTM D6348–12e1, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," is an acceptable alternative to EPA Method 320 at this time with caveats requiring inclusion of selected annexes to the standard as mandatory. This field test method uses an extractive sampling system to direct stationary source effluent to an FTIR spectrometer to identify and quantify gaseous compounds with results as a concentration. We are allowing the use of this VCS as an alternative to EPA Method 320 at 40 CFR 63.2354(b)(3)and(4) and at Table 5 to 40 CFR part 63, subpart EEEE under conditions that the test plan preparation and implementation in the Annexes to ASTM D6348–12e1, sections A1 through A8 are mandatory; the percent $(\%)_R$ must be determined for each target analyte (Equation A5.5); %R must be $70\% \geq R \leq 130\%$; if the %R value does not meet this criterion for a target compound, then the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest); and the %R value for each compound must be reported in the test report and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = ((Measured Concentration in Stack))/(%R) × 100.

We are incorporating this method at 40 CFR 63.14(e)(85) for use in the OLD NESHAP.

(6) The VCS ISO 16017–2:2003 (R2014), "Indoor, Ambient and Workplace Air Sampling and Analysis of Volatile Organic Compounds by Sorbent Tube/Thermal Desorption/

Capillary Gas Chromatography—Part 2: Diffusive Sampling,'' is an acceptable alternative to EPA Method 325B. This VCS is already incorporated by reference in EPA Method 325B.

(7) The VCS ASTM D6196–03(2009), ''Standard Practice for Selection of Sorbents, Sampling and Thermal Desorption Analysis Procedures for Volatile Organic Compounds in Air,'' is an acceptable alternative to EPA Methods 325A and 325B. This VCS is already incorporated by reference in EPA Method 325B.

Additionally, the EPA is using ASTM D6886–18, ''Standard Test Method for Determination of the Weight Percent Individual Volatile Organic Compounds in Waterborne Air-Dry Coatings by Gas Chromatography.'' ASTM D6886–18 is to be used as one acceptable method to determine the percent weight of HAP in organic liquid, especially for liquids that contain a significant amount of carbon tetrachloride or formaldehyde, which are not detected using the Flame Ionization Detector-based standard in the governing method currently cited in the OLD NESHAP (*i.e.,* EPA Method 311).

The ASTM standards newly incorporated by reference in this rule are available to the public for free viewing online in the Reading Room section on ASTM's website at *https://www.astm.org/READINGLIBRARY/*. In addition to this free online viewing availability on ASTM's website, hard copies and printable versions are available for purchase from ASTM.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Organic Liquids Distribution (Non-Gasoline) Source Category Operations,* available in the docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 12, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended:

■ a. By revising paragraphs (a) and (e)(1);

■ b. In paragraphs (h)(31) and (32), by removing ''63.2406,'';

■ c. By revising paragraphs (h)(83) and (85);

■ d. By redesignating paragraphs (h)(101) through (113) as paragraphs (h)(104) through (115), respectively;

■ e. By revising newly redesignated paragraphs (h)(91) and (93); and

■ f. By adding new paragraph (h)(103).

The revisions and additions read as follows:

§ 63.14 September 5, 2020 Incorporations by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the EPA must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC, telephone number 202–566–1744, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), 63.1625(b), table 5 to subpart EEEE, 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(h) * * *

(31) ASTM D2879–83, Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, Approved 1983, IBR approved for §§ 63.111, 63.1402, and 63.12005.

(32) ASTM D2879–96, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, Approved 1996, IBR approved for §§ 63.111, and 63.12005.

* * * * *

(83) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2003, IBR approved for §§ 63.457(b), 63.997(e), and 63.1349, table 4 to subpart DDDD, table 5 to subpart EEEE, table 4 to subpart UUUU, table 4 subpart ZZZZ, and table 8 to subpart HHHHHHH.

* * * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.997(e), 63.1571(a), 63.2354(b), table 5 to subpart EEEE, and table 4 to subpart UUUU.

* * * * *

(91) ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, (Approved October 1, 2004), IBR approved for §§ 63.457(b), 63.772(a), 63.772(e), 63.1282(a) and (d), and table 8 to subpart HHHHHHH.

* * * * *

(93) ASTM D6420–18, Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry, (Approved November 1, 2018), IBR approved for §§ 63.987(b), 63.997(e), 63.2354(b), and table 5 to subpart EEEE.

* * * * *

(103) ASTM D6886–18, Standard Test Method for Determination of the Weight Percent Individual Volatile Organic Compounds in Waterborne Air-Dry Coatings by Gas Chromatography, approved October 1, 2018, IBR approved for § 63.2354(c).

* * * * *

Subpart EEEE—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

■ 3. Section 63.2338 is amended by revising paragraph (c) introductory text to read as follows:

§ 63.2338 What parts of my plant does this subpart cover?

* * * * *

(c) The equipment listed in paragraphs (c)(1) through (3) of this section and used in the identified operations is excluded from the affected source.

* * * * *

■ 4. Section 63.2342 is amended by revising paragraph (a) introductory text, adding paragraph (b) introductory text, revising paragraph (d), and adding paragraph (e) to read as follows:

§ 63.2342 When do I have to comply with this subpart?

(a) Except as specified in paragraph (e) of this section, if you have a new or reconstructed affected source, you must comply with this subpart according to the schedule identified in paragraph (a)(1), (2), or (3) of this section, as applicable.

* * * * *

(b) Except as specified in paragraph (e) of this section, if you have an existing affected source, you must comply with this subpart according to the schedule identified in paragraph (b)(1), (2), or (3) of this section, as applicable.

* * * * *

(d) You must meet the notification requirements in §§ 63.2343 and 63.2382(a), as applicable, according to the schedules in § 63.2382(a) and (b)(1) through (2) and in subpart A of this part. Some of these notifications must be submitted before the compliance dates for the emission limitations, operating limits, and work practice standards in this subpart.

(e) An affected source that commenced construction or reconstruction on or before October 21, 2019, must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup or July 7, 2023, whichever is later. An affected source that commenced construction or reconstruction after October 21, 2019, must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup or July 7, 2020, whichever is later.

(1) The requirements for storage tanks not requiring control specified in § 63.2343(b)(4).

(2) The requirements for storage tanks at an existing affected source specified in §§ 63.2346(a)(5) and (6), 63.2386(d)(3)(iii), 63.2396(a)(4), footnote (2) to Table 2 to this subpart, and Table 2b to this subpart.

(3) The flare requirements specified in §§ 63.2346(k), 63.2382(d)(2)(ix), 63.2386(d)(5), 63.2390(h), footnote (1) to Table 2 to this subpart, item 7.d, to Table 3 to this subpart, items 1.a.iii and 2.a.iii of Table 8 to this subpart, and item 7.e of Table 9 to this subpart.

(4) The requirements specified in §§ 63.2346(l), 63.2350(d), 63.2366(c), 63.2390(f) and (g), 63.2386(c)(11) and (12), 63.2386(d)(1)(xiii) and (f) through (j), 63.2378(e), footnote (1) to Table 9 to this subpart, and items 1.a.i and 2.a.ii of Table 10 to this subpart.

(5) The performance testing requirements specified in § 63.2354(b)(6).

■ 5. Section 63.2343 is amended by:

■ a. Revising the introductory text, paragraph (a), and paragraph (b) introductory text;

■ b. Adding paragraph (b)(4); and

■ c. Revising paragraph (c)(1)(iii).

The revisions and additions read as follows:

§ 63.2343 What are my requirements for emission sources not requiring control?

This section establishes the notification, recordkeeping, and reporting requirements for emission sources identified in § 63.2338 that do not require control under this subpart (*i.e.,* under § 63.2346(a) through (e)). Such emission sources are not subject to any other notification, recordkeeping, or reporting sections in this subpart, including § 63.2350(c), except as indicated in paragraphs (a) through (d) of this section.

(a) For each storage tank subject to this subpart having a capacity of less than 18.9 cubic meters (5,000 gallons) and for each transfer rack subject to this subpart that only unloads organic liquids (*i.e.,* no organic liquids are loaded at any of the transfer racks), you must keep documentation that verifies that each storage tank and transfer rack identified in this paragraph (a) is not required to be controlled. The documentation must be kept up-to-date (*i.e.,* all such emission sources at a facility are identified in the documentation regardless of when the documentation was last compiled) and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location. The documentation may consist of identification of the tanks and transfer racks identified in this paragraph (a) on a plant site plan or process and instrumentation diagram (P&ID).

(b) Except as specified in paragraph (b)(4) of this section, for each storage tank subject to this subpart having a capacity of 18.9 cubic meters (5,000 gallons) or more that is not subject to control based on the criteria specified in Table 2 to this subpart, items 1 through 6, you must comply with the requirements specified in paragraphs (b)(1) through (3) of this section.

* * * * *

(4) Beginning no later than the compliance dates specified in § 63.2342(e), the requirements specified in paragraphs (b)(1) through (3) of this section apply to the following storage tanks:

(i) Storage tanks at an existing affected source subject to this subpart having a capacity of 18.9 cubic meters (5,000 gallons) or more that are not subject to control based on the criteria specified in Table 2b to this subpart, items 1 through 3.

(ii) Storage tanks at a reconstructed or new affected source subject to this subpart having a capacity of 18.9 cubic meters (5,000 gallons) or more that are not subject to control based on the criteria specified in Table 2 to this subpart, items 3 through 6.

(c) * * *

(1) * * *

(iii) If you are already submitting a Notification of Compliance Status or a first Compliance report under § 63.2386(c), you do not need to submit a separate Notification of Compliance Status or first Compliance report for each transfer rack that meets the conditions identified in this paragraph (c) (*i.e.,* a single Notification of Compliance Status or first Compliance report should be submitted).

* * * * *

■ 6. Section 63.2346 is amended by:

■ a. Revising paragraphs (a) introductory text, (a)(1) and (2), (a)(4)(ii) and (iv), (a)(4)(v) introductory text, and (a)(4)(v)(A);
■ b. Adding paragraph (a)(5) and (6);
■ c. Revising paragraphs (b)(1) and (2), (c), (d)(2), (e), (f), and (i); and
■ b. Adding paragraphs (k) and (l).

The revisions and additions read as follows:

§ 63.2346 What emission limitations, operating limits, and work practice standards must I meet?

(a) *Storage tanks.* Except as specified in paragraphs (a)(5) and (6) and (l) of this section, for each storage tank storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in Table 2 to this subpart, items 1 through 5, you must comply with paragraph (a)(1), (2), (3), or (4) of this section. For each storage tank storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in Table 2 to this subpart, item 6, you must comply with paragraph (a)(1), (2), or (4) of this section.

(1) Meet the emission limits specified in Table 2 or 2b to this subpart and comply with paragraph (l) of this section and the applicable requirements specified in subpart SS of this part, for meeting emission limits, except substitute the term "storage tank" at each occurrence of the term "storage vessel" in subpart SS.

(2) Route emissions to fuel gas systems or back into a process as specified in subpart SS of this part. If you comply with this paragraph, then you must also comply with the requirements specified in paragraph (l) of this section.

* * * * *

(4) * * *

(ii) Transport vehicles must have a current certification in accordance with the United States Department of Transportation (U.S. DOT) qualification and maintenance requirements of 49 CFR part 180, subparts E (for cargo tanks) and F (for tank cars).

* * * * *

(iv) No pressure relief device on the storage tank, on the vapor return line, or on the cargo tank or tank car, shall open during loading or as a result of diurnal temperature changes (breathing losses).

(v) Pressure relief devices must be set to no less than 2.5 pounds per square inch gauge (psig) at all times to prevent breathing losses. Pressure relief devices may be set at values less than 2.5 psig if the owner or operator provides rationale in the notification of compliance status report explaining why the alternative value is sufficient to prevent breathing losses at all times. The owner or operator shall comply with paragraphs (a)(4)(v)(A) through (C) of this section for each relief valve.

(A) The relief valve shall be monitored quarterly using the method described in § 63.180(b).

* * * * *

(5) Beginning no later than the compliance dates specified in § 63.2342(e), the tank capacity criteria, liquid vapor pressure criteria, and emission limits specified for storage tanks at an existing affected source in Table 2 of this subpart, item 1 no longer apply. Instead, for each storage tank at an existing affected source storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in Table 2b to this subpart, items 1 through 3, you must comply with paragraph (a)(1), (2), (3), or (4) and paragraph (a)(6) of this section.

(6) Beginning no later than the compliance dates specified in § 63.2342(e), tank emissions during storage tank shutdown operations (*i.e.,* emptying and degassing of a storage tank) for each storage tank at an affected source storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in items 3 through 6 of Table 2 to this subpart, or items 1 through 3 of Table 2b to this subpart, you must comply with paragraphs (a)(6)(i) through (iii) of this section during tank emptying and degassing until the vapor space concentration in the tank is less than 10 percent of the lower explosive limit (LEL). The owner or operator must determine the LEL using process instrumentation or portable measurement devices and follow procedures for calibration and maintenance according to manufacturer's specifications.

(i) Remove organic liquids from the storage tank as much as practicable;

(ii) Comply with either of the following:

(A) The requirements of Table 2 or 2b to this subpart, item 1.a.i. as applicable; OR,

(B) The requirements of Table 4 to this subpart, item 1.b.

(iii) Comply with the requirements in § 63.2350(d) for each storage tank shutdown event and maintain records necessary to demonstrate compliance with the requirements in § 63.2350(d) including, if appropriate, records of existing standard site procedures used to empty and degas (deinventory) equipment for safety purposes.

(b) * * *

(1) Meet the emission limits specified in Table 2 to this subpart and comply with paragraph (l) of this section and the applicable requirements for transfer racks specified in subpart SS of this part, for meeting emission limits.

(2) Route emissions to fuel gas systems or back into a process as specified in subpart SS of this part. If you comply with this paragraph, then you must also comply with the requirements specified in paragraph (l) of this section.

* * * * *

(c) *Equipment leak components.* For each pump, valve, and sampling connection that operates in organic liquids service for at least 300 hours per year, you must comply with paragraph (l) of this section and the applicable requirements under subpart TT of this part (control level 1), subpart UU of this part (control level 2), or subpart H of this part. Pumps, valves, and sampling connectors that are insulated to provide protection against persistent sub-freezing temperatures are subject to the "difficult to monitor" provisions in the applicable subpart selected by the owner or operator. This paragraph only applies if the affected source has at least one storage tank or transfer rack that meets the applicability criteria for control in Table 2 or 2b to this subpart.

(d) * * *

(2) Ensure that organic liquids are loaded only into transport vehicles that have a current certification in accordance with the U.S. DOT qualification and maintenance requirements in 49 CFR part 180, subpart E for cargo tanks and subpart F for tank cars.

(e) *Operating limits.* For each high throughput transfer rack, you must meet each operating limit in Table 3 to this subpart for each control device used to comply with the provisions of this subpart whenever emissions from the loading of organic liquids are routed to the control device. Except as specified in paragraph (k) of this section, for each storage tank and low throughput transfer rack, you must comply with paragraph (l) of this section and the requirements for monitored parameters as specified in subpart SS of this part, for storage vessels and, during the loading of organic liquids, for low throughput transfer racks, respectively. Alternatively, you may comply with the operating limits in Table 3 to this subpart.

(f) *Surrogate for organic HAP.* For noncombustion devices, if you elect to demonstrate compliance with a percent reduction requirement in Table 2 or 2b to this subpart using total organic compounds (TOC) rather than organic HAP, you must first demonstrate,

subject to the approval of the Administrator, that TOC is an appropriate surrogate for organic HAP in your case; that is, for your storage tank(s) and/or transfer rack(s), the percent destruction of organic HAP is equal to or higher than the percent destruction of TOC. This demonstration must be conducted prior to or during the initial compliance test.

* * * * *

(i) *Safety device.* Opening of a safety device is allowed at any time that it is required to avoid unsafe operating conditions. Beginning no later than July 7, 2023, this paragraph no longer applies.

* * * * *

(k) *Flares.* Beginning no later than the compliance dates specified in § 63.2342(e), for each storage tank and low throughput transfer rack that is subject to control based on the criteria specified in Tables 2 or 2b to this subpart, if you vent emissions through a closed vent system to a flare then you must comply with the requirements specified in § 63.2380 instead of the requirements in § 63.987 and the provisions regarding flare compliance assessments at § 63.997(a), (b), and (c).

(l) *Startup, shutdown, and malfunction.* Beginning no later than the compliance dates specified in § 63.2342(e), the referenced provisions specified in paragraphs (l)(1) through (20) of this section do not apply when demonstrating compliance with subpart H of this part, subpart SS of this part, subpart TT of this part, and subpart UU of this part.

(1) The second sentence of § 63.181(d)(5)(i).

(2) The second sentence of § 63.983(a)(5).

(3) The phrase "except during periods of start-up, shutdown, and malfunction as specified in the referencing subpart" in § 63.984(a).

(4) The phrase "except during periods of start-up, shutdown and malfunction as specified in the referencing subpart" in § 63.985(a).

(5) The phrase "other than start-ups, shutdowns, or malfunctions" in § 63.994(c)(1)(ii)(D).

(6) § 63.996(c)(2)(ii).

(7) The last sentence of § 63.997(e)(1)(i).

(8) § 63.998(b)(2)(iii).

(9) The phrase "other than periods of start-ups, shutdowns or malfunctions" from § 63.998(b)(5)(i)(A).

(10) The phrase "other than a start-up, shutdown or malfunction" from § 63.998(b)(5)(i)(B)(3).

(11) The phrase "other than periods of start-ups, shutdowns or malfunctions" from § 63.998(b)(5)(i)(C).

(12) The phrase "other than a start-up, shutdown or malfunction" from § 63.998(b)(5)(ii)(C).

(13) The phrase ", except as provided in paragraphs (b)(6)(i)(A) and (B) of this section" from § 63.998(b)(6)(i).

(14) The second sentence of § 63.998(b)(6)(ii).

(15) § 63.998(c)(1)(ii)(D), (E), (F), and (G).

(16) § 63.998(d)(3).

(17) The phrase "may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or" from § 63.1005(e)(4)(i).

(18) The phrase "may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or" from § 63.1024(f)(4)(i).

(19) The phrase "(except periods of startup, shutdown, or malfunction)" from § 63.1007(e)(1)(ii)(A).

(20) The phrase "(except periods of startup, shutdown, or malfunction)" from § 63.1026(e)(1)(ii)(A).

■ 7. Section 63.2350 is revised to read as follows:

§ 63.2350 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations, operating limits, and work practice standards in this subpart at all times when the equipment identified in § 63.2338(b)(1) through (5) is in OLD operation.

(b) Except as specified in paragraph (d) of this section, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) Except for emission sources not required to be controlled as specified in § 63.2343, you must develop a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3). Beginning no later than July 7, 2023, this paragraph no longer applies; however, for historical compliance purposes, a copy of the plan must be retained and available according to the requirements in § 63.2394(c) for five years after July 7, 2023.

(d) Beginning no later than the compliance dates specified in § 63.2342(e), paragraph (b) of this section no longer applies. Instead, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 8. Section 63.2354 is amended by:

■ a. Revising paragraphs (a)(2) and (3) and (b)(1), (3), (4), and (5);

■ b. Adding paragraph (b)(6);

■ c. Revising paragraph (c); and

■ d. Adding paragraph (d).

The revisions and additions read as follows:

§ 63.2354 What performance tests, design evaluations, and performance evaluations must I conduct?

(a) * * *

(2) For each design evaluation you conduct, you must use the procedures specified in subpart SS of this part. You must also comply with the requirements specified in § 63.2346(l).

(3) For each performance evaluation of a continuous emission monitoring system (CEMS) you conduct, you must follow the requirements in § 63.8(e) and paragraph (d) of this section. For CEMS installed after the compliance date specified in § 63.2342(e), conduct a performance evaluation of each CEMS within 180 days of installation of the monitoring system.

(b)(1) Except as specified in paragraph (b)(6) of this section, for nonflare control devices, you must conduct each performance test according to the requirements in § 63.7(e)(1), and either § 63.988(b), § 63.990(b), or § 63.995(b), using the procedures specified in § 63.997(e).

* * * * *

(3)(i) In addition to Method 25 or 25A (40 CFR part 60, appendix A–7), to determine compliance with the TOC emission limit, you may use Method 18 (40 CFR part 60, appendix A–6) or Method 320 of appendix A to this part to determine compliance with the total organic HAP emission limit. You may not use Method 18 or Method 320 of appendix A to this part if the control device is a combustion device, and you must not use Method 320 of appendix A to this part if the gas stream contains entrained water droplets. All compounds quantified by Method 320 of appendix A to this part must be validated according to Section 13.0 of

Method 320 of appendix A to this part. As an alternative to Method 18, for determining compliance with the total organic HAP emission limit, you may use ASTM D6420–18 (incorporated by reference, see § 63.14), under the conditions specified in paragraph (b)(3)(ii) of this section.

(A) If you use Method 18 (40 CFR 60, appendix A–6) or Method 320 of appendix A to this part to measure compliance with the percentage efficiency limit, you must first determine which organic HAP are present in the inlet gas stream (*i.e.,* uncontrolled emissions) using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, you must analyze samples collected simultaneously at the inlet and outlet of the control device. Quantify the emissions for the same organic HAP identified as present in the inlet gas stream for both the inlet and outlet gas streams of the control device.

(B) If you use Method 18 (40 CFR part 60, appendix A–6) or Method 320 of appendix A to this part, to measure compliance with the emission concentration limit, you must first determine which organic HAP are present in the inlet gas stream using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, analyze samples collected as specified in Method 18 at the outlet of the control device. Quantify the control device outlet emission concentration for the same organic HAP identified as present in the inlet or uncontrolled gas stream.

(ii) You may use ASTM D6420–18 (incorporated by reference, see § 63.14), to determine compliance with the total organic HAP emission limit if the target concentration for each HAP is between 150 parts per billion by volume and 100 ppmv and either of the conditions specified in paragraph (b)(2)(ii)(A) or (B) of this section exists. For target compounds not listed in Section 1.1 of ASTM D6420–18 and not amenable to detection by mass spectrometry, you may not use ASTM D6420–18.

(A) The target compounds are those listed in Section 1.1 of ASTM D6420–18 (incorporated by reference, see § 63.14); or

(B) For target compounds not listed in Section 1.1 of ASTM D6420–18 (incorporated by reference, see § 63.14), but potentially detected by mass spectrometry, you must demonstrate recovery of the compound and the additional system continuing calibration check after each run, as detailed in ASTM D6420–18, Section 10.5.3, must be followed, met, documented, and submitted with the data report, even if there is no moisture condenser used or the compound is not considered water-soluble.

(iii) You may use ASTM D6348–12e1 (incorporated by reference, see § 63.14) instead of Method 320 of appendix A to this part under the conditions specified in footnote 4 of Table 5 to this subpart.

(4) If a principal component of the uncontrolled or inlet gas stream to the control device is formaldehyde, you must use Method 316 of appendix A to this part, Method 320 of appendix A to this part, or Method 323 of appendix A to this part for measuring the formaldehyde, except you must not use Method 320 or Method 323 of appendix A to this part if the gas stream contains entrained water droplets. If you use Method 320 of appendix A to this part, formaldehyde must be validated according to Section 13.0 of Method 320 of appendix A to this part. You must measure formaldehyde either at the inlet and outlet of the control device to determine control efficiency or at the outlet of a combustion device for determining compliance with the emission concentration limit. You may use ASTM D6348–12e1 (incorporated by reference, see § 63.14) instead of Method 320 of appendix A to this part under the conditions specified in footnote 4 of Table 5 to this subpart.

(5) Except as specified in paragraph (b)(6) of this section, you may not conduct performance tests during periods of SSM, as specified in § 63.7(e)(1).

(6) Beginning no later than the compliance dates specified in § 63.2342(e), paragraphs (b)(1) and (5) of this section no longer apply. Instead, you must conduct each performance test according to the requirements in paragraphs (b)(6)(i) and (ii) of this section.

(i) In lieu of the requirements specified in § 63.7(e)(1), you must conduct performance tests under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(ii) Pursuant to paragraph (b)(6)(i) of this section, you must conduct each performance test according to the requirements in either § 63.988(b), § 63.990(b), or § 63.995(b), using the procedures specified in § 63.997(e). You must also comply with the requirements specified in § 63.2346(l).

(c) To determine the HAP content of the organic liquid, you may use Method 311 of appendix A to this part, ASTM D6886–18 (incorporated by reference, see § 63.14), or other method approved by the Administrator. If you use ASTM D6886–18 to determine the HAP content, you must use either Method B or Method B in conjunction with Method C, as described in section 4.3 of ASTM D6886–18. In addition, you may use other means, such as voluntary consensus standards, safety data sheets (SDS), or certified product data sheets, to determine the HAP content of the organic liquid. If the method you select to determine the HAP content provides HAP content ranges, you must use the upper end of each HAP content range in determining the total HAP content of the organic liquid. The EPA may require you to test the HAP content of an organic liquid using Method 311 of appendix A to this part or other method approved by the Administrator. For liquids that contain any amount of formaldehyde or carbon tetrachloride, you may not use Method 311of appendix A to this part. If the results of the Method 311 of appendix A to this part (or any other approved method) are different from the HAP content determined by another means, the Method 311 of appendix A to this part (or approved method) results will govern. For liquids that contain any amount of formaldehyde or carbon tetrachloride, if the results of ASTM D6886–18 using method B or C in section 4.3 (or any other approved method) are different from the HAP content determined by another means, ASTM D6886–18 using method B or C in section 4 (or approved method) results will govern.

(d) Each VOC CEMS must be installed, operated, and maintained according to the requirements of one of the following performance specifications in appendix B to part 60 of this chapter: Performance Specification 8, Performance Specification 8A, Performance Specification 9, or Performance Specification 15. You must also comply with the requirements of procedure 1 of appendix F to part 60 of this chapter, for CEMS using Performance Specification 8 or 8A.

(1) For CEMS using Performance Specification 9 or 15 (40 CFR part 60,

appendix B), determine the target analyte(s) for calibration using either process knowledge or the screening procedures of Method 18 (40 CFR part 60, appendix A–6).

(2) For CEMS using Performance Specification 8A (40 CFR part 60, appendix B), conduct the relative accuracy test audits required under Procedure 1 (40 CFR part 60, appendix F) in accordance with Sections 8 and 11 of Performance Specification 8 (40 CFR part 60, appendix B). The relative accuracy must meet the criteria of Section 13.2 of Performance Speciation 8 (40 CFR part 60, appendix B).

(3) For CEMS using Performance Specification 8 or 8A of 40 CFR part 60, appendix B, calibrate the instrument on methane and report the results as carbon (C1). Use Method 25A of 40 CFR part 60, appendix A–7 as the reference method for the relative accuracy tests.

(4) If you are required to monitor oxygen in order to conduct concentration corrections, you must use Performance Specification 3 (40 CFR part 60, appendix B), to certify your oxygen CEMS, and you must comply with procedure 1 (40 CFR part 60, appendix F). Use Method 3A (40 CFR part 60, appendix A–2), as the reference method when conducting a relative accuracy test audit.

■ 9. Section 63.2358 is amended by adding paragraph (b)(3) to read as follows:

§ 63.2358 By what date must I conduct performance tests and other initial compliance demonstrations?

* * * * *

(b) * * *

(3) For storage tanks at existing affected sources that commenced construction or reconstruction on or before October 21, 2019, you must demonstrate initial compliance with the emission limitations listed in Table 2b to this subpart within 180 days of either the initial startup or July 7, 2023, whichever is later, except as provided in paragraphs (b)(3)(i) and (ii) of this section.

(i) For storage tanks with an existing internal or external floating roof, complying with item 1.a.ii. in Table 2b to this subpart and item 1.a. in Table 4 to this subpart, you must conduct your initial compliance demonstration the next time the storage tank is emptied and degassed, but not later than July 7, 2030.

(ii) For storage tanks complying with item 1.a.ii. in Table 2b to this subpart and item 1.b. or 1.c. in Table 4 to this subpart, you must comply within 180 days after July 7, 2023.

* * * * *

■ 10. Section 63.2362 is amended by revising paragraph (b)(2) to read as follows:

§ 63.2362 When must I conduct subsequent performance tests?

* * * * *

(b) * * *

(2) For transport vehicles that you own that do not have vapor collection equipment, you must maintain current certification in accordance with the U.S. DOT qualification and maintenance requirements in 49 CFR part 180, subparts E (cargo tanks) and F (tank cars).

■ 11. Section 63.2366 is revised to read as follows:

§ 63.2366 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain a continuous monitoring system (CMS) on each control device required in order to comply with this subpart. If you use a continuous parameter monitoring system (CPMS) (as defined in § 63.981), you must comply with § 63.2346(l) and the applicable requirements for CPMS in subpart SS of this part and § 63.671, for the control device being used. If you use a CEMS, you must install, operate, and maintain the CEMS according to the requirements in § 63.8 and paragraph (d) of this section, except as specified in paragraph (c) of this section.

(b) For nonflare control devices controlling storage tanks and low throughput transfer racks, you must submit a monitoring plan according to the requirements in subpart SS of this part, for monitoring plans. You must also comply with the requirements specified in § 63.2346(l).

(c) Beginning no later than the compliance dates specified in § 63.2342(e), you must keep the written procedures required by § 63.8(d)(2) on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you must keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2). In addition to the information required in § 63.8(d)(2), your written procedures for CEMS must include the information in paragraphs (c)(1) through (6) of this section:

(1) Description of CEMS installation location.

(2) Description of the monitoring equipment, including the manufacturer and model number for all monitoring equipment components and the span of the analyzer.

(3) Routine quality control and assurance procedures.

(4) Conditions that would trigger a CEMS performance evaluation, which must include, at a minimum, a newly installed CEMS; a process change that is expected to affect the performance of the CEMS; and the Administrator's request for a performance evaluation under section 114 of the Clean Air Act.

(5) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1) and (3), (c)(4)(ii), and (c)(7) and (8);

(6) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1).

(d) For each CEMS, you must locate the sampling probe or other interface at a measurement location such that you obtain representative measurements of emissions from the regulated source and comply with the applicable requirements specified in § 63.2354(d).

■ 12. Section 63.2370 is amended by revising paragraphs (a) and (c) to read as follows:

§ 63.2370 How do I demonstrate initial compliance with the emission limitations, operating limits, and work practice standards?

(a) You must demonstrate initial compliance with each emission limitation and work practice standard that applies to you as specified in Tables 6 and 7 to this subpart.

* * * * *

(c) You must submit the results of the initial compliance determination in the Notification of Compliance Status according to the requirements in § 63.2382(d). If the initial compliance determination includes a performance test and the results are submitted electronically via the Compliance and Emissions Data Reporting Interface (CEDRI) in accordance with § 63.2386(g), the unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the Notification of Compliance Status is submitted.

■ 13. Section 63.2374 is amended by revising paragraph (a) to read as follows:

§ 63.2374 When do I monitor and collect data to demonstrate continuous compliance and how do I use the collected data?

(a) You must monitor and collect data according to subpart SS of this part, and paragraphs (b) and (c) of this section. You must also comply with the requirements specified in § 63.2346(l).

* * * * *

■ 14. Section 63.2378 is amended by revising paragraphs (a), (b) introductory text, (b)(2), (c), and (d), and adding paragraphs (e) and (f) to read as follows:

§ 63.2378 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

(a) You must demonstrate continuous compliance with each emission limitation, operating limit, and work practice standard in Tables 2 through 4 to this subpart that applies to you according to the methods specified in subpart SS of this part, and in Tables 8 through 10 to this subpart, as applicable. You must also comply with the requirements specified in § 63.2346(l).

(b) Except as specified in paragraph (e) of this section, you must follow the requirements in § 63.6(e)(1) and (3) during periods of startup, shutdown, malfunction, or nonoperation of the affected source or any part thereof. In addition, the provisions of paragraphs (b)(1) through (3) of this section apply.

* * * * *

(2) The owner or operator must not shut down control devices or monitoring systems that are required or utilized for achieving compliance with this subpart during periods of SSM while emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart applicable to such items of equipment. This paragraph (b)(2) does not apply if the item of equipment is malfunctioning. This paragraph (b)(2) also does not apply if the owner or operator shuts down the compliance equipment (other than monitoring systems) to avoid damage due to a contemporaneous SSM of the affected source or portion thereof. If the owner or operator has reason to believe that monitoring equipment would be damaged due to a contemporaneous SSM of the affected source of portion thereof, the owner or operator must provide documentation supporting such a claim in the next Compliance report required in Table 11 to this subpart, item 1. Once approved by the Administrator, the provision for ceasing to collect, during a SSM, monitoring data that would otherwise be required by the provisions of this subpart must be incorporated into the SSM plan.

* * * * *

(c) Except as specified in paragraph (e) of this section, periods of planned routine maintenance of a control device used to control storage tanks or transfer racks, during which the control device does not meet the emission limits in Table 2 to this subpart, must not exceed 240 hours per year.

(d) Except as specified in paragraph (e) of this section, if you elect to route emissions from storage tanks or transfer racks to a fuel gas system or to a process, as allowed by § 63.982(d), to comply with the emission limits in Table 2 to this subpart, the total aggregate amount of time during which the emissions bypass the fuel gas system or process during the calendar year without being routed to a control device, for all reasons (except SSM or product changeovers of flexible operation units and periods when a storage tank has been emptied and degassed), must not exceed 240 hours.

(e) Beginning no later than the compliance dates specified in § 63.2342(e), paragraphs (b) through (d) of this section no longer apply. Instead, you must be in compliance with each emission limitation, operating limit, and work practice standard specified in paragraph (a) of this section at all times, except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies and must comply with the requirements specified in paragraphs (e)(1) through (5) of this section, as applicable. Equipment subject to the work practice standards for equipment leak components in Table 4 to this subpart, item 4 are not subject to this paragraph (e).

(1) Except as specified in paragraphs (e)(3) through (5) of this section, the use of a bypass line at any time on a closed vent system to divert a vent stream to the atmosphere or to a control device not meeting the requirements specified in paragraph (a) of this section is an emissions standards deviation.

(2) If you are subject to the bypass monitoring requirements of § 63.983(a)(3), then you must continue to comply with the requirements in § 63.983(a)(3) and the recordkeeping and reporting requirements in §§ 63.998(d)(1)(ii) and 63.999(c)(2), in addition to § 63.2346(l), the recordkeeping requirements specified in § 63.2390(g), and the reporting requirements specified in § 63.2386(c)(12).

(3) Periods of planned routine maintenance of a control device used to control storage tank breathing loss emissions, during which the control device does not meet the emission limits in Table 2 or 2b to this subpart, must not exceed 240 hours per year. The level of material in the storage vessel shall not be increased during periods that the closed-vent system or control device is bypassed to perform routine maintenance.

(4) If you elect to route emissions from storage tanks to a fuel gas system or to a process, as allowed by § 63.982(d), to comply with the emission limits in Table 2 or 2b to this subpart, the total aggregate amount of time during which the breathing loss emissions bypass the fuel gas system or process during the calendar year without being routed to a control device, for all reasons (except product changeovers of flexible operation units and periods when a storage tank has been emptied and degassed), must not exceed 240 hours. The level of material in the storage vessel shall not be increased during periods that the fuel gas system or process is bypassed to perform routine maintenance.

(f) The CEMS data must be reduced to daily averages computed using valid data consistent with the data availability requirements specified in § 63.999(c)(6)(i)(B) through (D), except monitoring data also are sufficient to constitute a valid hour of data if measured values are available for at least two of the 15-minute periods during an hour when calibration, quality assurance, or maintenance activities are being performed. In computing daily averages to determine compliance with this subpart, you must exclude monitoring data recorded during CEMS breakdowns, out of control periods, repairs, maintenance periods, calibration checks, or other quality assurance activities.

■ 15. Section 63.2380 is added before the undesignated center heading "Notifications, Reports, and Records" to read as follows:

§ 63.2380 What are my requirements for certain flares?

(a) Beginning no later than the compliance dates specified in § 63.2342(e), if you reduce organic HAP emissions by venting emissions through a closed vent system to a steam-assisted, air-assisted, or non-assisted flare to control emissions from a storage tank, low throughput transfer rack, or high throughput transfer rack that is subject to control based on the criteria specified in Tables 2 or 2b to this subpart, then the flare requirements specified in § 63.11(b); subpart SS of this part; the provisions specified in items 7.a

through 7.d of Table 3 to this subpart; Table 8 to this subpart; and the provisions specified in items 1.a.iii and 2.a.iii, and items 7.a through 7.d.2 of Table 9 to this subpart no longer apply. Instead, you must meet the applicable requirements for flares as specified in §§ 63.670 and 63.671, including the provisions in Tables 12 and 13 to subpart CC of this part, except as specified in paragraphs (b) through (m) of this section. For purposes of compliance with this paragraph, the following terms are defined in § 63.641: Assist air, assist steam, center steam, combustion zone, combustion zone gas, flare, flare purge gas, flare supplemental gas, flare sweep gas, flare vent gas, lower steam, net heating value, perimeter assist air, pilot gas, premix assist air, total steam, and upper steam.

(b) The following phrases in § 63.670(c) do not apply:

(1) "Specify the smokeless design capacity of each flare and"; and

(2) "And the flare vent gas flow rate is less than the smokeless design capacity of the flare."

(c) The phrase "and the flare vent gas flow rate is less than the smokeless design capacity of the flare" in § 63.670(d) does not apply.

(d) Section 63.670(j)(6)(ii) does not apply. Instead submit the information required by § 63.670(j)(6)(ii) with the Notification of Compliance Status according to § 63.2382(d)(2)(ix).

(e) Section 63.670(o) does not apply.

(f) Substitute "pilot flame or flare flame" or each occurrence of "pilot flame."

(g) Substitute "affected source" for each occurrence of "petroleum refinery."

(h) Each occurrence of "refinery" does not apply.

(i) You may elect to comply with the alternative means of emissions limitation requirements specified in § 63.670(r)in lieu of the requirements in § 63.670(d) through (f), as applicable. However, instead of complying with § 63.670(r)(3)(iii), you must also submit the alternative means of emissions limitation request to the following address: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (E143–01), Attention: Organic Liquids Distribution Sector Lead, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Electronic copies in lieu of hard copies may also be submitted to *oldrtr@epa.gov*.

(j) If you choose to determine compositional analysis for net heating value with a continuous process mass spectrometer, then you must comply with the requirements specified in paragraphs (j)(1) through (7) of this section.

(1) You must meet the requirements in § 63.671(e)(2). You may augment the minimum list of calibration gas components found in § 63.671(e)(2) with compounds found during a pre-survey or known to be in the gas through process knowledge.

(2) Calibration gas cylinders must be certified to an accuracy of 2 percent and traceable to National Institute of Standards and Technology (NIST) standards.

(3) For unknown gas components that have similar analytical mass fragments to calibration compounds, you may report the unknowns as an increase in the overlapped calibration gas compound. For unknown compounds that produce mass fragments that do not overlap calibration compounds, you may use the response factor for the nearest molecular weight hydrocarbon in the calibration mix to quantify the unknown component's NHVvg.

(4) You may use the response factor for n-pentane to quantify any unknown components detected with a higher molecular weight than n-pentane.

(5) You must perform an initial calibration to identify mass fragment overlap and response factors for the target compounds.

(6) You must meet applicable requirements in Performance Specification (PS) 9 (40 CFR part 60, appendix B) for continuous monitoring system acceptance including, but not limited to, performing an initial multi-point calibration check at three concentrations following the procedure in Section 10.1 of PS 9 and performing the periodic calibration requirements listed for gas chromatographs in Table 13 to subpart CC of this part, for the process mass spectrometer. You may use the alternative sampling line temperature allowed under Net Heating Value by Gas Chromatograph in Table 13 to subpart CC of this part.

(7) The average instrument calibration error (CE) for each calibration compound at any calibration concentration must not differ by more than 10 percent from the certified cylinder gas value. The CE for each component in the calibration blend must be calculated using the following equation:

$$CE = \frac{C_m - C_a}{Ca} x\ 100$$

Where:

Cm = Average instrument response (ppm)

Ca = Certified cylinder gas value (ppm)

(k) If you use a gas chromatograph or mass spectrometer for compositional analysis for net heating value, then you may choose to use the CE of NHV measured versus the cylinder tag value NHV as the measure of agreement for daily calibration and quarterly audits in lieu of determining the compound-specific CE. The CE for NHV at any calibration level must not differ by more than 10 percent from the certified cylinder gas value. The CE for must be calculated using the following equation:

$$CE = \frac{NHV_{measured} - NHV_a}{NHV_a} x\ 100$$

Where:

NHVmeasured = Average instrument response (Btu/scf)

NHVa = Certified cylinder gas value (Btu/scf)

(l) Instead of complying with § 63.670(p), you must keep the flare monitoring records specified in § 63.2390(h).

(m) Instead of complying with § 63.670(q), you must comply with the reporting requirements specified in § 63.2382(d)(2)(ix) and § 63.2386(d)(5).

■ 16. Section 63.2382 is amended by revising paragraphs (a), (d)(1), (d)(2) introductory text, (d)(2)(ii), (vi), and (vii), and adding paragraphs (d)(2)(ix) and (d)(3) to read as follows:

§ 63.2382 What notifications must I submit and when and what information should be submitted?

(a) You must submit each notification in subpart SS of this part, Table 12 to this subpart, and paragraphs (b) through (d) of this section that applies to you. You must submit these notifications according to the schedule in Table 12 to this subpart and as specified in paragraphs (b) through (d) of this

section. You must also comply with the requirements specified in § 63.2346(l).

* * * * *

(d) * * *

(1) *Notification of Compliance Status.* If you are required to conduct a performance test, design evaluation, or other initial compliance demonstration as specified in Table 5, 6, or 7 to this subpart, you must submit a Notification of Compliance Status.

(2) *Notification of Compliance Status requirements.* The Notification of Compliance Status must include the information required in § 63.999(b) and in paragraphs (d)(2)(i) through (ix) of this section.

* * * * *

(ii) The results of emissions profiles, performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate initial compliance according to Tables 6 and 7 to this subpart. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures. If performance test results are submitted electronically via CEDRI in accordance with § 63.2386(g), the unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the Notification of Compliance Status is submitted.

* * * * *

(vi) The applicable information specified in § 63.1039(a)(1) through (3) for all pumps and valves subject to the work practice standards for equipment leak components in Table 4 to this subpart, item 4.

(vii) If you are complying with the vapor balancing work practice standard for transfer racks according to Table 4 to this subpart, item 3.a, include a statement to that effect and a statement that the pressure vent settings on the affected storage tanks are greater than or equal to 2.5 psig.

* * * * *

(ix) For flares subject to the requirements of § 63.2380, you must also submit the information in this paragraph in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for flare monitoring. In lieu of the information required in § 63.987(b), the Notification of Compliance Status must include flare design (*e.g.,* steam-assisted, air-assisted, or non-assisted); all visible emission readings, heat content determinations (including information required by § 63.670(j)(6)(i), as applicable), flow rate measurements, and exit velocity determinations made during the initial visible emissions demonstration required by § 63.670(h), as applicable; and all periods during the compliance determination when the pilot flame or flare flame is absent.

(3) *Submitting Notification of Compliance Status.* Beginning no later than the compliance dates specified in § 63.2342(e), you must submit all subsequent Notification of Compliance Status reports to the EPA via CEDRI, which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), then submit a complete report, including information claimed to be CBI, to the EPA. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (C404–02), Attention: Organic Liquids Distribution Sector Lead, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described earlier in this paragraph. You may assert a claim of EPA system outage or force majeure for failure to timely comply with this reporting requirement provided you meet the requirements outlined in § 63.2386(i) or (j), as applicable.

■ 17. Section 63.2386 is amended by:
■ a. Revising paragraphs (a), (b) introductory text, (c) introductory text, (c)(2), (3), (5), and (9);
■ b. Adding paragraphs (c)(11) and (12);
■ c. Revising paragraph (d) introductory text, (d)(1) introductory text, (d)(1)(i) through (d)(1)(vii), (ix), and (x);
■ d. Adding paragraphs (d)(1)(xiii) through (xv);
■ e. Revising paragraph (d)(2)(i);
■ f. Adding paragraph (d)(2)(iv);
■ g. Revising paragraph (d)(3);
■ h. Adding paragraph (d)(5);
■ i. Revising paragraph (e); and
■ j. Adding paragraphs (f) through (j).

The revisions and additions read as follows:

§ 63.2386 What reports must I submit and when and what information is to be submitted in each?

(a) You must submit each report in subpart SS of this part, Table 11 to this subpart, Table 12 to this subpart, and in paragraphs (c) through (j) of this section that applies to you. You must also comply with the requirements specified in § 63.2346(l).

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to Table 11 to this subpart and by the dates shown in paragraphs (b)(1) through (3) of this section, by the dates shown in subpart SS of this part, and by the dates shown in Table 12 to this subpart, whichever are applicable.

* * * * *

(c) *First Compliance report.* The first Compliance report must contain the information specified in paragraphs (c)(1) through (12) of this section, as well as the information specified in paragraph (d) of this section.

* * * * *

(2) Statement by a responsible official, including the official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete. If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces this requirement.

(3) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

* * * * *

(5) Except as specified in paragraph (c)(11) of this section, if you had a SSM during the reporting period and you took actions consistent with your SSM plan, the Compliance report must include the information described in § 63.10(d)(5)(i).

* * * * *

(9) A listing of all transport vehicles into which organic liquids were loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, during the previous 6 months for which vapor tightness documentation as required in § 63.2390(c) was not on file at the facility.

* * * * *

(11) Beginning no later than the compliance dates specified in § 63.2342(e), paragraph (c)(5) of this section no longer applies.

(12) Beginning no later than the compliance dates specified in § 63.2342(e), for bypass lines subject to the requirements § 63.2378(e)(1) and (2), the compliance report must include the start date, start time, duration in hours, estimate of the volume of gas in

standard cubic feet (scf), the concentration of organic HAP in the gas in ppmv and the resulting mass emissions of organic HAP in pounds that bypass a control device. For periods when the flow indicator is not operating, report the start date, start time, and duration in hours.

(d) *Subsequent Compliance reports.* Subsequent Compliance reports must contain the information in paragraphs (c)(1) through (9) and paragraph (c)(12) of this section and, where applicable, the information in paragraphs (d)(1) through (5) of this section.

(1) For each deviation from an emission limitation occurring at an affected source where you are using a CMS to comply with an emission limitation in this subpart, or for each CMS that was inoperative or out of control during the reporting period, you must include in the Compliance report the applicable information in paragraphs (d)(1)(i) through (xv) of this section. This includes periods of SSM.

(i) The date and time that each malfunction started and stopped, and the nature and cause of the malfunction (if known).

(ii) The start date, start time, and duration in hours for each period that each CMS was inoperative, except for zero (low-level) and high-level checks.

(iii) The start date, start time, and duration in hours for each period that the CMS that was out of control.

(iv) Except as specified in paragraph (d)(1)(xiii) of this section, the date and time that each deviation started and stopped, and whether each deviation occurred during a period of SSM, or during another period.

(v) The total duration in hours of all deviations for each CMS during the reporting period, and the total duration as a percentage of the total emission source operating time during that reporting period.

(vi) Except as specified in paragraph (d)(1)(xiii) of this section, a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(vii) The total duration in hours of CMS downtime for each CMS during the reporting period, and the total duration of CMS downtime as a percentage of the total emission source operating time during that reporting period.

* * * * *

(ix) A brief description of the emission source(s) at which the CMS deviation(s) occurred or at which the CMS was inoperative or out of control.

(x) The equipment manufacturer(s) and model number(s) of the CMS and the pollutant or parameter monitored.

* * * * *

(xiii) Beginning no later than the compliance dates specified in § 63.2342(e), paragraphs (d)(1)(iv) and (vi) of this section no longer apply. For each instance, report the start date, start time, and duration in hours of each failure. For each failure, the report must include a list of the affected sources or equipment, an estimate of the quantity in pounds of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of the deviation (including unknown cause, if applicable), as applicable, and the corrective action taken.

(xiv) Corrective actions taken for a CMS that was inoperative or out of control.

(xv) Total process operating time during the reporting period.

(2) * * *

(i) Except as specified in paragraph (d)(2)(iv) of this section, for each storage tank and transfer rack subject to control requirements, include periods of planned routine maintenance during which the control device did not comply with the applicable emission limits in Table 2 to this subpart.

* * * * *

(iv) Beginning no later than the compliance dates specified in § 63.2342(e), paragraph (d)(2)(i) of this section no longer applies. Instead for each storage tank subject to control requirements, include the start date, start time, end date and end time of any planned routine maintenance during which the control device used to control storage tank breathing losses did not comply with the applicable emission limits in Table 2 or 2b to this subpart.

(3)(i) Except as specified in paragraph (d)(3)(iii) of this section, a listing of any storage tank that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 1 through 6, since the filing of the last Compliance report.

(ii) A listing of any transfer rack that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 7 through 10, since the filing of the last Compliance report.

(iii) Beginning no later than the compliance dates specified in § 63.2342(e), the emission limits specified in Table 2 to this subpart for storage tanks at an existing affected source no longer apply as specified in § 63.2346(a)(5). Instead, beginning no later than the compliance dates specified in § 63.2342(e), you must include a listing of any storage tanks at an existing affected source that became subject to controls based on the criteria for control specified in Table 2b to this subpart, items 1 through 3, since the filing of the last Compliance report.

* * * * *

(5) Beginning no later than the compliance dates specified in § 63.2342(e), for each flare subject to the requirements in § 63.2380, the compliance report must include the items specified in paragraphs (d)(5)(i) through (iii) of this section in lieu of the information required in § 63.999(c)(3).

(i) Records as specified in § 63.2390(h)(1) for each 15-minute block during which there was at least one minute when regulated material is routed to a flare and no pilot flame or flare flame is present. Include the start and stop time and date of each 15-minute block.

(ii) Visible emission records as specified in § 63.2390(h)(2)(iv) for each period of 2 consecutive hours during which visible emissions exceeded a total of 5 minutes.

(iii) The periods specified in § 63.2390(h)(6). Indicate the date and start and end time for the period, and the net heating value operating parameter(s) determined following the methods in § 63.670(k) through (n) as applicable.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a Compliance report pursuant to Table 11 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the Compliance report includes all required information concerning deviations from any emission limitation in this subpart, we will consider submission of the Compliance report as satisfying any obligation to report the same deviations in the semiannual monitoring report. However, submission of a Compliance report will not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the applicable title V permitting authority.

(f) Beginning no later than the compliance dates specified in § 63.2342(e), you must submit all Compliance reports to the EPA via CEDRI, which can be accessed through

EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports under §§ 63.9(i) and 63.10(a), the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (C404–02), Attention: Organic Liquids Distribution Sector Lead, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described earlier in this paragraph. You may assert a claim of EPA system outage or force majeure for failure to timely comply with this reporting requirement provided you meet the requirements outlined in paragraph (i) or (j) of this section, as applicable.

(g) Beginning no later than the compliance dates specified in § 63.2342(e), you must start submitting performance test reports in accordance with this paragraph. Unless otherwise specified in this subpart, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* If you claim some of the information submitted under paragraph (g)(1) or (2) of this section is CBI, then you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described in paragraphs (g)(1) and (2) of this section.

(h) Beginning no later than the compliance dates specified in § 63.2342(e), you must start submitting performance evaluation reports in accordance with this paragraph. Unless otherwise specified in this subpart, within 60 days after the date of completing each CEMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) *Performance evaluations of CEMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* If you claim some of the information submitted under paragraph (h)(1) or (2) of this section is CBI, then you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (h)(1) and (2) of this section.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (i)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(j) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (j)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this paragraph, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 18. Section 63.2390 is amended by:

■ a. Revising paragraphs (b)(1) and (2);

■ b. Adding paragraph (b)(3);

■ c. Revising paragraphs (c) introductory text, (c)(2) and (3), and (d); and

■ d. Adding paragraphs (f) through (h).

The revisions and additions read as follows:

§ 63.2390 What records must I keep?

* * * * *

(b) * * *

(1) Except as specified in paragraph (h) of this section for flares, you must keep all records identified in subpart SS of this part and in Table 12 to this subpart that are applicable, including records related to notifications and reports, SSM, performance tests, CMS, and performance evaluation plans. You must also comply with the requirements specified in § 63.2346(l).

(2) Except as specified in paragraph (h) of this section for flares, you must keep the records required to show continuous compliance, as required in subpart SS of this part and in Tables 8 through 10 to this subpart, with each emission limitation, operating limit, and work practice standard that applies to you. You must also comply with the requirements specified in § 63.2346(l).

(3) In addition to the information required in § 63.998(c), the manufacturer's specifications or your written procedures must include a schedule for calibrations, preventative maintenance procedures, a schedule for preventative maintenance, and corrective actions to be taken if a calibration fails.

(c) For each transport vehicle into which organic liquids are loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must keep the applicable records in paragraphs (c)(1) and (2) of this section or alternatively the verification records in paragraph (c)(3) of this section.

* * * * *

(2) For transport vehicles without vapor collection equipment, current certification in accordance with the U.S. DOT qualification and maintenance requirements in 49 CFR part 180, subpart E for cargo tanks and subpart F for tank cars.

(3) In lieu of keeping the records specified in paragraph (c)(1) or (2) of this section, as applicable, the owner or operator shall record that the verification of U.S. DOT tank certification or Method 27 of 40 CFR part 60, appendix A–8 testing, required in Table 5 to this subpart, item 2, has been performed. Various methods for the record of verification can be used, such as: A check-off on a log sheet, a list of U.S. DOT serial numbers or Method 27 data, or a position description for gate security showing that the security guard will not allow any trucks on site that do not have the appropriate documentation.

(d) You must keep records of the total actual annual facility-level organic liquid loading volume as defined in § 63.2406 through transfer racks to document the applicability, or lack thereof, of the emission limitations in Table 2 to this subpart, items 7 through 10.

* * * * *

(f) Beginning no later than the compliance dates specified in § 63.2342(e), for each deviation from an emission limitation, operating limit, and work practice standard specified in paragraph (a) of this section, you must keep a record of the information specified in paragraph (f)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.2350(d) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(g) Beginning no later than the compliance dates specified in § 63.2342(e), for each flow event from a bypass line subject to the requirements in § 63.2378(e)(1) and (2), you must maintain records sufficient to determine whether or not the detected flow included flow requiring control. For each flow event from a bypass line requiring control that is released either directly to the atmosphere or to a control device not meeting the requirements specified in § 63.2378(a), you must include an estimate of the volume of gas, the concentration of organic HAP in the gas and the resulting emissions of organic HAP that bypassed the control device using process knowledge and engineering estimates.

(h) Beginning no later than the compliance dates specified in § 63.2342(e), for each flare subject to the

requirements in § 63.2380, you must keep records specified in paragraphs (h)(1) through (10) of this section in lieu of the information required in § 63.998(a)(1).

(1) Retain records of the output of the monitoring device used to detect the presence of a pilot flame or flare flame as required in § 63.670(b) for a minimum of 2 years. Retain records of each 15-minute block during which there was at least one minute that no pilot flame or flare flame is present when regulated material is routed to a flare for a minimum of 5 years. You may reduce the collected minute-by-minute data to a 15-minute block basis with an indication of whether there was at least one minute where no pilot flame or flare flame was present.

(2) Retain records of daily visible emissions observations or video surveillance images required in § 63.670(h) as specified in paragraphs (h)(2)(i) through (iv) of this section, as applicable, for a minimum of 3 years.

(i) To determine when visible emissions observations are required, the record must identify all periods when regulated material is vented to the flare.

(ii) If visible emissions observations are performed using Method 22 of 40 CFR part 60, appendix A–7, then the record must identify whether the visible emissions observation was performed, the results of each observation, total duration of observed visible emissions, and whether it was a 5-minute or 2-hour observation. Record the date and start and end time of each visible emissions observation.

(iii) If a video surveillance camera is used, then the record must include all video surveillance images recorded, with time and date stamps.

(iv) For each 2-hour period for which visible emissions are observed for more than 5 minutes in 2 consecutive hours, then the record must include the date and start and end time of the 2-hour period and an estimate of the cumulative number of minutes in the 2-hour period for which emissions were visible.

(3) The 15-minute block average cumulative flows for flare vent gas and, if applicable, total steam, perimeter assist air, and premix assist air specified to be monitored under § 63.670(i), along with the date and time interval for the 15-minute block. If multiple monitoring locations are used to determine cumulative vent gas flow, total steam, perimeter assist air, and premix assist air, then retain records of the 15-minute block average flows for each monitoring location for a minimum of 2 years, and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 5 years. If pressure and temperature monitoring is used, then retain records of the 15-minute block average temperature, pressure, and molecular weight of the flare vent gas or assist gas stream for each measurement location used to determine the 15-minute block average cumulative flows for a minimum of 2 years, and retain the 15-minute block average cumulative flows that are used in subsequent calculations for a minimum of 5 years.

(4) The flare vent gas compositions specified to be monitored under § 63.670(j). Retain records of individual component concentrations from each compositional analysis for a minimum of 2 years. If an NHVvg analyzer is used, retain records of the 15-minute block average values for a minimum of 5 years.

(5) Each 15-minute block average operating parameter calculated following the methods specified in § 63.670(k) through (n), as applicable.

(6) All periods during which operating values are outside of the applicable operating limits specified in § 63.670(d) through (f) when regulated material is being routed to the flare.

(7) All periods during which you do not perform flare monitoring according to the procedures in § 63.670(g).

(8) Records of periods when there is flow of vent gas to the flare, but when there is no flow of regulated material to the flare, including the start and stop time and dates of periods of no regulated material flow.

(9) The monitoring plan required in § 63.671(b).

(10) Records described in § 63.10(b)(2)(vi).

■ 19. Section 63.2396 is amended by:
■ a. Revising paragraph (a)(3);
■ b. Adding paragraph (a)(4);
■ c. Revising paragraph (c)(1) and (2);
■ d. Adding paragraph (d); and
■ e. Revising paragraph (e)(2).

The revisions and additions read as follows:

§ 63.2396 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

(a) * * *

(3) Except as specified in paragraph (a)(4) of this section, as an alternative to paragraphs (a)(1) and (2) of this section, if a storage tank assigned to the OLD affected source is subject to control under 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, you may elect to comply only with the requirements of this subpart for storage tanks meeting the applicability criteria for control in Table 2 to this subpart.

(4) Beginning no later than the compliance dates specified in § 63.2342(e), the applicability criteria for control specified in Table 2 to this subpart for storage tanks at an existing affected source no longer apply as specified in § 63.2346(a)(5). Instead, beginning no later than the compliance dates specified in § 63.2342(e), as an alternative to paragraphs (a)(1) and (2) of this section, if a storage tank assigned to an existing OLD affected source is subject to control under 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, you may elect to comply only with the requirements of this subpart for storage tanks at an existing affected source meeting the applicability criteria for control in Table 2b to this subpart.

* * * * *

(c) * * *

(1) After the compliance dates specified in § 63.2342, if you have pumps, valves, or sampling connections that are subject to a 40 CFR part 60 subpart, and those pumps, valves, and sampling connections are in OLD operation and in organic liquids service, as defined in this subpart, you must comply with the provisions of each subpart for those equipment leak components.

(2) After the compliance dates specified in § 63.2342, if you have pumps, valves, or sampling connections subject to subpart GGG of this part, and those pumps, valves, and sampling connections are in OLD operation and in organic liquids service, as defined in this subpart, you may elect to comply with the provisions of this subpart for all such equipment leak components. You must identify in the Notification of Compliance Status required by § 63.2382(b) the provisions with which you will comply.

(d) *Overlap of subpart EEEE with other regulations for flares for the OLD source category.* (1) Beginning no later than the compliance dates specified in § 63.2342(e), flares that are subject to § 60.18 of this chapter or § 63.11 and used as a control device for an emission point subject to the requirements in Tables 2 or 2b to of this subpart are required to comply only with § 63.2380. At any time before the compliance dates specified in § 63.2342(e), flares that are subject to § 60.18 or § 63.11 and elect to comply with § 63.2380 are required to comply only with § 63.2380.

(2) Beginning no later than the compliance dates specified in § 63.2342(e), flares that are subject to § 63.987 and used as a control device for an emission point subject to the requirements in Tables 2 or 2b to this subpart are required to comply only with § 63.2380. At any time before the compliance dates specified in

§ 63.2342(e), flares that are subject to §§ 63.987 and elect to comply with § 63.2380 are required to comply only with § 63.2380.

(3) Beginning no later than the compliance dates specified in § 63.2342(e), flares that are subject to the requirements of subpart CC of this part and used as a control device for an emission point subject to the requirements in Tables 2 or 2b to this subpart are required to comply only with the flare requirements in subpart CC of this part.

(e) * * *

(2) Equipment leak components. After the compliance dates specified in § 63.2342, if you are applying the applicable recordkeeping and reporting requirements of another subpart of this part to the valves, pumps, and sampling connection systems associated with a transfer rack subject to this subpart that only unloads organic liquids directly to or via pipeline to a non-tank process unit component or to a storage tank subject to the other subpart of this part, the owner or operator must be in compliance with the recordkeeping and reporting requirements of this subpart EEEE. If complying with the recordkeeping and reporting requirements of the other subpart satisfies the recordkeeping and reporting requirements of this subpart, the owner or operator may elect to continue to comply with the recordkeeping and reporting requirements of the other subpart. In such instances, the owner or operator will be deemed to be in compliance with the recordkeeping and reporting requirements of this subpart. The owner or operator must identify the other subpart being complied with in the Notification of Compliance Status required by § 63.2382(d).

■ 20. Section 63.2402 is amended by revising paragraph (b) introductory text and adding paragraph (b)(5) to read as follows:

§ 63.2402 Who implements and enforces this subpart?

* * * * *

(b) In delegating implementation and enforcement authority for this subpart to a State, local, or eligible tribal agency under subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the EPA Administrator and are not delegated to the State, local, or eligible tribal agency.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 21. Section 63.2406 is amended by:

■ a. Revising the definition of "Annual average true vapor pressure";

■ b. Adding in alphabetical order a definition for "Condensate";

■ c. Revising the definitions of "Deviation" and "Equipment leak component";

■ d. Adding in alphabetical order a definition for "Force majeure event";

■ e. Revising the definition of "Organic liquid";

■ f. Adding definitions in alphabetical order for "Pressure relief device" and "Relief valve"; and

■ g. Revising the definition of "Vapor-tight transport vehicle".

The revisions and additions read as follows:

§ 63.2406 What definitions apply to this subpart?

* * * * *

Annual average true vapor pressure means the equilibrium partial pressure exerted by the total organic HAP in Table 1 to this subpart in the stored or transferred organic liquid. For the purpose of determining if a liquid meets the definition of an organic liquid, the vapor pressure is determined using conditions of 77 degrees Fahrenheit and 29.92 inches of mercury. For the purpose of determining whether an organic liquid meets the applicability criteria in Table 2 to this subpart, items 1 through 6, or Table 2b to this subpart, items 1 through 3, use the actual annual average temperature as defined in this subpart. The vapor pressure value in either of these cases is determined:

(1) Using standard reference texts;

(2) By ASTM D6378–18a (incorporated by reference, see § 63.14) using a vapor to liquid ratio of 4:1; or

(3) Using any other method that the EPA approves.

* * * * *

Condensate means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions as specified in § 63.2. Only those condensates downstream of the first point of custody transfer after the production field are considered condensates in this subpart.

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or portion thereof, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Before July 7, 2023, fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during SSM. On and after July 7, 2023, this paragraph no longer applies.

* * * * *

Equipment leak component means each pump, valve, and sampling connection system used in organic liquids service at an OLD operation. Valve types include control, globe, gate, plug, and ball. Relief and check valves are excluded.

Force majeure event means a release of HAP, either directly to the atmosphere from a safety device or discharged via a flare, that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the OLD operation (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the OLD operation that impacts the OLD operation's ability to operate.

* * * * *

Organic liquid means:

(1) Any non-crude oil liquid, non-condensate liquid, or liquid mixture that contains 5 percent by weight or greater of the organic HAP listed in Table 1 to this subpart, as determined using the procedures specified in § 63.2354(c).

(2) Any crude oils or condensates downstream of the first point of custody transfer.

(3) Organic liquids for purposes of this subpart do not include the following liquids:

(i) Gasoline (including aviation gasoline), kerosene (No. 1 distillate oil), diesel (No. 2 distillate oil), asphalt, and heavier distillate oils and fuel oils;

(ii) Any fuel consumed or dispensed on the plant site directly to users (such as fuels for fleet refueling or for refueling marine vessels that support the operation of the plant);

(iii) Hazardous waste;

(iv) Wastewater;

(v) Ballast water; or

(vi) Any non-crude oil or non-condensate liquid with an annual average true vapor pressure less than 0.7 kilopascals (0.1 psia).

* * * * *

Pressure relief device means a valve, rupture disk, or similar device used only to release an unplanned, nonroutine discharge of gas from process equipment in order to avoid safety hazards or equipment damage. A pressure relief device discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause. Such devices include conventional, spring-actuated relief valves, balanced bellows relief valves, pilot-operated relief valves, rupture disks, and breaking, buckling, or shearing pin devices.

Relief valve means a type of pressure relief device that is designed to re-close after the pressure relief.

* * * * *

Vapor-tight transport vehicle means a transport vehicle that has been demonstrated to be vapor-tight. To be considered vapor-tight, a transport vehicle equipped with vapor collection equipment must undergo a pressure change of no more than 250 pascals (1 inch of water) within 5 minutes after it is pressurized to 4,500 pascals (18 inches of water). This capability must be demonstrated annually using the procedures specified in Method 27 of 40 CFR part 60, appendix A–8. For all other transport vehicles, vapor tightness is demonstrated by performing the U.S. DOT pressure test procedures for tank cars and cargo tanks.

* * * * *

■ 22. Table 2 to subpart EEEE of Part 63 is revised to read as follows:

Table 2 to Subpart EEEE of Part 63—Emission Limits

If you own or operate . . .	And if . . .	Then you must . . .[1]
1. A storage tank at an existing affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <189.3 cubic meters (50,000 gallons)[2].	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3-percent oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of subpart SS of this part and § 63.2346(l); OR ii. Comply with the work practice standards specified in Table 4 to this subpart, items 1.a, 1.b, or 1.c for tanks storing liquids described in that table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or 1.a.ii of this table.
2. A storage tank at an existing affected source with a capacity ≥189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is <76.6 kilopascals (11.1 psia).	i. See the requirement in item 1.a.i or 1.a.ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or 1.a.ii of this table.
3. A storage tank at a reconstructed or new affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <37.9 cubic meters (10,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia).	i. See the requirement in item 1.a.i or 1.a.ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or 1.a.ii of this table.
4. A storage tank at a reconstructed or new affected source with a capacity ≥37.9 cubic meters (10,000 gallons) and <189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥0.7 kilopascals (0.1 psia) and <76.6 kilopascals (11.1 psia).	i. See the requirement in item 1.a.i or 1.a.ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or 1.a.ii of this table.
5. A storage tank at a reconstructed or new affected source with a capacity ≥189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is <76.6 kilopascals (11.1 psia).	i. See the requirement in item 1.a.i or 1.a.ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or 1.a.ii of this table.

If you own or operate . . .	And if . . .	Then you must . . .[1]
6. A storage tank at an existing, reconstructed, or new affected source meeting the capacity criteria specified in Table 2 to this subpart, items 1 through 5.	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3-percent oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of subpart SS of this part and § 63.2346(l); OR ii. Comply with the work practice standards specified in Table 4 to this subpart, item 2.a or 2.b, for tanks storing the liquids described in that table.
7. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons and less than 10 million gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 98 percent by weight and is being loaded into a transport vehicle.	i. For all such loading arms at the rack, reduce emissions of total organic HAP (or, upon approval, TOC) from the loading of organic liquids either by venting the emissions that occur during loading through a closed vent system to any combination of control devices meeting the applicable requirements of subpart SS of this part and § 63.2346(l), achieving at least 98 weight-percent HAP reduction, OR, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3-percent oxygen for combustion devices using supplemental combustion air; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3 of Table 4 to this subpart.
8. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is ≥10 million gallons.	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.
9. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is less than 800,000 gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 25 percent by weight and is being loaded into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.
	b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.
10. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons.	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.
	b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.

[1] Beginning no later than the compliance dates specified in § 63.2342(e), for each storage tank and low throughput transfer rack, if you vent emissions through a closed vent system to a flare then you must comply with the requirements specified in § 63.2346(k).

[2] Beginning no later than the compliance dates specified in § 63.2342(e), the tank capacity criteria, liquid vapor pressure criteria, and emission limits specified for storage tanks at an existing affected source in Table 2 to this subpart, item 1 no longer apply. Instead, you must comply with the requirements as specified in § 63.2346(a)(5) and Table 2b to this subpart.

■ 23. Subpart EEEE of Part 63 is amended by adding Table 2b to read as follows:

Table 2b to Subpart EEEE of Part 63—Emission Limits For Storage Tanks At Certain Existing Affected Sources

As stated in § 63.2346(a)(5), beginning no later than the compliance dates specified in § 63.2342(e), the requirements in this Table 2b to this subpart apply to storage tanks at an existing affected source in lieu of the requirements in Table 2 to this subpart, item 1 for storage tanks at an existing affected source.

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage tank at an existing affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <75.7 cubic meters (20,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥27.6 kilopascals (4.0 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3- percent oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to a flare meeting the requirements of §§ 63.983 and 63.2380, or by venting emissions through a closed vent system to any combination of nonflare control devices meeting the applicable requirements of subpart SS of this part and § 63.2346(l); OR. ii. Comply with the work practice standards specified in Table 4 to this subpart, items 1.a, 1.b, or 1.c for tanks storing liquids described in that table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or ii of this table.
2. A storage tank at an existing affected source with a capacity ≥75.7 cubic meters (20,000 gallons) and <151.4 cubic meters (40,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥13.1 kilopascals (1.9 psia).	i. See the requirement in item 1.a.i or ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or ii of this table.
3. A storage tank at an existing affected source with a capacity ≥151.4 cubic meters (40,000 gallons) and <189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil or condensate and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥5.2 kilopascals (0.75 psia).	i. See the requirement in item 1.a.i or ii of this table.
	b. The stored organic liquid is crude oil or condensate.	i. See the requirement in item 1.a.i or ii of this table.

■ 24. Table 3 to subpart EEEE of Part 63 is revised to read as follows:

Table 3 to Subpart EEEE of Part 63—Operating Limits—High Throughput Transfer Racks

As stated in § 63.2346(e), you must comply with the operating limits for existing, reconstructed, or new affected sources as follows:

For each existing, each reconstructed, and each new affected source using . . .	You must . . .
1. A thermal oxidizer to comply with an emission limit in Table 2 to this subpart.	Maintain the daily average fire box or combustion zone temperature greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.
2. A catalytic oxidizer to comply with an emission limit in Table 2 to this subpart.	a. Replace the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND b. Maintain the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND c. Maintain the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.
3. An absorber to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND

For each existing, each reconstructed, and each new affected source using . . .	You must . . .
	Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.
4. A condenser to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds at the condenser exit less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the daily average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Achieve a pressure reduction during each adsorption bed regeneration cycle greater than or equal to the pressure reduction established during the design evaluation or performance test that demonstrated compliance with the emission limit.
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.
7. A flare to comply with an emission limit in Table 2 to this subpart	a. Except as specified in item 7.d of this table, comply with the equipment and operating requirements in § 63.987(a); AND b. Except as specified in item 7.d of this table, conduct an initial flare compliance assessment in accordance with § 63.987(b); AND c. Except as specified in item 7.d of this table, install and operate monitoring equipment as specified in § 63.987(c). d. Beginning no later than the compliance dates specified in § 63.2342(e), comply with the requirements in § 63.2380 instead of the requirements in § 63.987 and the provisions regarding flare compliance assessments at § 63.997(a), (b), and (c).
8. Another type of control device to comply with an emission limit in Table 2 to this subpart.	Submit a monitoring plan as specified in §§ 63.995(c) and 63.2366(b), and monitor the control device in accordance with that plan.

■ 25. Table 4 to subpart EEEE of Part 63 is revised to read as follows:

Table 4 to Subpart EEEE of Part 63—Work Practice Standards

As stated in § 63.2346, you may elect to comply with one of the work practice standards for existing, reconstructed, or new affected sources in the following table. If you elect to do so, . . .

For each . . .	You must . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5 or Table 2b to this subpart, items 1 through 3.	a. Comply with the requirements of 40 CFR part 63, subpart WW (control level 2), if you elect to meet 40 CFR part 63, subpart WW (control level 2) requirements as an alternative to the emission limit in Table 2 to this subpart, items 1 through 5 or the emission limit in Table 2b to this subpart, items 1 through 3; OR.

For each . . .	You must . . .
	b. Comply with the requirements in §§ 63.2346(l) and 63.984 for routing emissions to a fuel gas system or back to a process; OR. c. Comply with the requirements of § 63.2346(a)(4) for vapor balancing emissions to the transport vehicle from which the storage tank is filled.
2. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, item 6.	a. Comply with the requirements in §§ 63.2346(l) and 63.984 for routing emissions to a fuel gas system or back to a process; OR b. Comply with the requirements of § 63.2346(a)(4) for vapor balancing emissions to the transport vehicle from which the storage tank is filled.
3. Transfer rack subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. If the option of a vapor balancing system is selected, install and, during the loading of organic liquids, operate a system that meets the requirements in Table 7 to this subpart, item 3.b.i and item 3.b.ii, as applicable; OR b. Comply with the requirements in §§ 63.2346(l) and 63.984 during the loading of organic liquids, for routing emissions to a fuel gas system or back to a process.
4. Pump, valve, and sampling connection that operates in organic liquids service at least 300 hours per year at an existing, reconstructed, or new affected source.	Comply with § 63.2346(l) and the requirements for pumps, valves, and sampling connections in 40 CFR part 63, subpart TT (control level 1), subpart UU (control level 2), or subpart H.
5. Transport vehicles equipped with vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Follow the steps in 40 CFR 60.502(e) to ensure that organic liquids are loaded only into vapor-tight transport vehicles, and comply with the provisions in 40 CFR 60.502(f), (g), (h), and (i), except substitute the term transport vehicle at each occurrence of tank truck or gasoline tank truck in those paragraphs.
6. Transport vehicles equipped without vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Ensure that organic liquids are loaded only into transport vehicles that have a current certification in accordance with the U.S. DOT qualification and maintenance requirements in 49 CFR part 180, subpart E for cargo tanks and subpart F for tank cars.

■ 26. Table 5 to subpart EEEE of Part 63 is revised to read as follows:

Table 5 to Subpart EEEE of Part 63—Requirements for Performance Tests and Design Evaluations

As stated in §§ 63.2354(a) and 63.2362, you must comply with the requirements for performance tests and design evaluations for existing, reconstructed, or new affected sources as follows:

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
1. Each existing, each reconstructed, and each new affected source using a nonflare control device to comply with an emission limit in Table 2 to this subpart, items 1 through 10, and each existing affected source using a nonflare control device to comply with an emission limit in Table 2b to this subpart, items 1 through 3.	a. A performance test to determine the organic HAP (or, upon a pproval, TOC) control efficiency of each nonflare control device, OR the exhaust concentration of each combustion device; OR	i. § 63.985(b)(1)(ii), § 63.988(b), § 63.990(b), or § 63.995(b).	(1) Method 1 or 1A in appendix A–1 of 40 CFR part 60, as appropriate.	(A) Sampling port locations and the required number of traverse points.	(i) Sampling sites must be located at the inlet and outlet of each control device if complying with the control efficiency requirement or at the outlet of the control device if complying with the exhaust concentration requirement; AND (ii) the outlet sampling site must be located at each control device prior to any releases to the atmosphere.
			(2) Method 2, 2A, 2C, 2D, or 2F in appendix A–1 of 40 CFR part 60, or Method 2G in appendix A–2 of 40 CFR part 60, as appropriate.	(A) Stack gas velocity and volumetric flow rate.	See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table.
			(3) Method 3A or 3B in appendix A–2 of 40 CFR part 60, as appropriate [1].	(A) Concentration of CO_2 and O_2 and dry molecular weight of the stack gas.	See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table.
			(4) Method 4 in appendix A–3 of 40 CFR part 60.	(A) Moisture content of the stack gas.	See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table.

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
			(5) Method 25 or 25A in appendix A–7 of 40 CFR part 60, as appropriate. Method 316, Method 320[4], or Method 323 in appendix A of this part if you must measure formaldehyde. You may not use Methods 320[2,4] or 323 for formaldehyde if the gas stream contains entrained water droplets.	(A) TOC and formaldehyde emissions, from any control device.	(i) The organic HAP used for the calibration gas for Method 25A in appendix A–7 of 40 CFR part 60 must be the single organic HAP representing the largest percent by volume of emissions; AND (ii) During the performance test, you must establish the operating parameter limits within which TOC emissions are reduced by the required weight-percent or, as an option for nonflare combustion devices, to 20-ppmv exhaust concentration.
			(6) Method 18[3] in appendix A–6 of 40 CFR part 60 or Method 320[2,4] of appendix A to this part, as appropriate. Method 316, Method 320[2,4], or Method 323 in appendix A of this part for measuring formaldehyde. You may not use Methods 320 or 323 if the gas stream contains entrained water droplets.	(A) Total organic HAP and formaldehyde emissions, from non-combustion control devices.	(i) During the performance test, you must establish the operating parameter limits within which total organic HAP emissions are reduced by the required weight-percent.
	b. A design evaluation (for nonflare control devices) to determine the organic HAP (or, upon approval, TOC) control efficiency of each nonflare control device, or the exhaust concentration of each combustion control device.	§ 63.985(b)(1)(i)			During a design evaluation, you must establish the operating parameter limits within which total organic HAP, (or, upon approval, TOC) emissions are reduced by at least 95 weight-percent for storage tanks or 98 weight-percent for transfer racks, or, as an option for nonflare combustion devices, to 20-ppmv exhaust concentration.
2. Each transport vehicle that you own that is equipped with vapor collection equipment and is loaded with organic liquids at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	A performance test to determine the vapor tightness of the tank and then repair as needed until it passes the test.		Method 27 of appendix A of 40 CFR part 60.	Vapor tightness	The pressure change in the tank must be no more than 250 pascals (1 inch of water) in 5 minutes after it is pressurized to 4,500 pascals (18 inches of water).

[1] The manual method in American Society of Mechanical Engineers (ASME) PTC 19.10–1981-Part 10 (2010) (incorporated by reference, see § 63.14) may be used instead of Method 3B in appendix A–2 of 40 CFR part 60 to determine oxygen concentration.

[2] All compounds quantified by Method 320 of appendix A to this part must be validated according to Section 13.0 of Method 320.

[3] ASTM D6420–18 (incorporated by reference, see § 63.14) may be used instead of Method 18 of 40 CFR part 60, appendix A–6 to determine total HAP emissions, but if you use ASTM D6420–18, you must use it under the conditions specified in § 63.2354(b)(3)(ii).

[4] ASTM D6348–12e1 (incorporated by reference, see § 63.14) may be used instead of Method 320 of appendix A to this part under the following conditions: the test plan preparation and implementation in the Annexes to ASTM D6348–12e1, Sections A1 through A8 are mandatory; the percent (%) R must be determined for each target analyte (Equation A5.5); %R must be 70% ≥ R ≤ 130%; if the %R value does not meet this criterion for a target compound, then the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.*, the sampling and/or analytical procedure should be adjusted before a retest); and the %R value for each compound must be reported in the test report and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in Stack))/(%R) × 100.

■ 27. Table 6 to subpart EEEE of Part 63 is amended by revising the rows for items 1 and 2 to read as follows:

Table 6 to Subpart EEEE of Part 63—Initial Compliance With Emission Limits

As stated in §§ 63.2370(a) and 63.2382(b), you must show initial compliance with the emission limits for existing, reconstructed, or new affected sources as follows:

For each . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6, or Table 2b to this subpart, items 1 through 3.	Reduce total organic HAP (or, upon approval, TOC) emissions by at least 95 weight-percent, or as an option for nonflare combustion devices to an exhaust concentration of ≤20 ppmv.	Total organic HAP (or, upon approval, TOC) emissions, based on the results of the performance testing or design evaluation specified in Table 5 to this subpart, item 1.a or 1.b, respectively, are reduced by at least 95 weight-percent or as an option for nonflare combustion devices to an exhaust concentration ≤20 ppmv.
2. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	Reduce total organic HAP (or, upon approval, TOC) emissions from the loading of organic liquids by at least 98 weight-percent, or as an option for nonflare combustion devices to an exhaust concentration of ≤20 ppmv.	Total organic HAP (or, upon approval, TOC) emissions from the loading of organic liquids, based on the results of the performance testing or design evaluation specified in Table 5 to this subpart, item 1.a or 1.b, respectively, are reduced by at least 98 weight-percent or as an option for nonflare combustion devices to an exhaust concentration of ≤20 ppmv.

■ 28. Table 7 to subpart EEEE of Part 63 is amended by revising the rows for items 1, 3, and 4 to read as follows:

TABLE 7 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

For each . . .	If you . . .	You have demonstrated initial compliance if . . .
1. Storage tank at an existing affected source meeting either set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 or 2, or Table 2b to this subpart, items 1 through 3.	a. Install a floating roof or equivalent control that meets the requirements in Table 4 to this subpart, item 1.a.	i. After emptying and degassing, you visually inspect each internal floating roof before the refilling of the storage tank and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the refilling of the storage tank.
	b. Route emissions to a fuel gas system or back to a process.	i. You meet the requirements in § 63.984(b) and submit the statement of connection required by § 63.984(c).
	c. Install and, during the filling of the storage tank with organic liquids, operate a vapor balancing system.	i. You meet the requirements in § 63.2346(a)(4).
2. Storage tank at a reconstructed or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 3 through 5.	a. Install a floating roof or equivalent control that meets the requirements in Table 4 to this subpart, item 1.a.	i. You visually inspect each internal floating roof before the initial filling of the storage tank and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the initial filling of the storage tank.
	b. Route emissions to a fuel gas system or back to a process.	i. See item 1.b.i of this table.
	c. Install and, during the filling of the storage tank with organic liquids, operate a vapor balancing system.	i. See item 1.c.i of this table.
3. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Load organic liquids only into transport vehicles having current vapor tightness certification as described in Table 4 to this subpart, item 5 and item 6.	i. You comply with the provisions specified in Table 4 to this subpart, item 5 or item 6, as applicable.

TABLE 7 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

For each . . .	If you . . .	You have demonstrated initial compliance if . . .
	b. Install and, during the loading of organic liquids, operate a vapor balancing system.	i. You design and operate the vapor balancing system to route organic HAP vapors displaced from loading of organic liquids into transport vehicles to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header. ii. You design and operate the vapor balancing system to route organic HAP vapors displaced from loading of organic liquids into containers directly (*e.g.,* no intervening tank or containment area such as a room) to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header.
	c. Route emissions to a fuel gas system or back to a process.	i. See item 1.b.i of this table.
4. Equipment leak component, as defined in § 63.2406, that operates in organic liquids service ≥300 hours per year at an existing, reconstructed, or new affected source.	a. Carry out a leak detection and repair program or equivalent control according to one of the subparts listed in Table 4 to this subpart, item 4.	i. You specify which one of the control programs listed in Table 4 to this subpart you have selected, OR ii. Provide written specifications for your equivalent control approach.

■ 29. Table 8 to subpart EEEE of Part 63 is revised to read as follows:

Table 8 to Subpart EEEE of Part 63—Continuous Compliance With Emission Limits

As stated in §§ 63.2378(a) and (b) and 63.2390(b), you must show continuous compliance with the emission limits for existing, reconstructed, or new affected sources according to the following table:

For each . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6 or Table 2b to this subpart, items 1 through 3.	a. Reduce total organic HAP (or, upon approval, TOC) emissions from the closed vent system and control device by 95 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378, except as specified in item 1.a.iii of this table; AND ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit. iii. Beginning no later than the compliance dates specified in § 63.2342(e), if you use a flare, you must demonstrate continuous compliance by performing CMS monitoring and collecting data according to requirements in § 63.2380.
2. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Reduce total organic HAP (or, upon approval, TOC) emissions during the loading of organic liquids from the closed vent system and control device by 98 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378 during the loading of organic liquids, except as specified in item 2.a.iii of this table; AND ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit during the loading of organic liquids. iii. Beginning no later than the compliance dates specified in § 63.2342(e), if you use a flare, you must demonstrate continuous compliance by performing CMS monitoring and collecting data according to requirements in § 63.2380.

■ 30. Table 9 to subpart EEEE of Part 63 is revised to read as follows:

Table 9 to Subpart EEEE of Part 63—Continuous Compliance With Operating Limits—High Throughput Transfer Racks

As stated in §§ 63.2378(a) and (b) and 63.2390(b), you must show continuous compliance with the operating limits for existing, reconstructed, or new affected sources according to the following table:

For each existing, reconstructed, and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
1. A thermal oxidizer to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average fire box or combustion zone, as applicable, temperature greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring and recording fire box or combustion zone, as applicable, temperature every 15 minutes and maintaining the daily average fire box temperature greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
2. A catalytic oxidizer to comply with an emission limit in Table 2 to this subpart.	a. Replace the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND	i. Replacing the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
	b. Maintain the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND.	i. Continuously monitoring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes and maintaining the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
	c. Maintain the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring and recording the temperature at the outlet of the catalyst bed every 15 minutes and maintaining the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
3. An absorber to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration in the absorber exhaust and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]

For each existing, reconstructed, and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
	b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring the scrubbing liquid temperature and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the difference between the specific gravities greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Keeping the applicable records required in § 63.998.[1]
4. A condenser to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds at the exit of the condenser less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration at the condenser exit and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
	b. Maintain the daily average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring and recording the temperature at the exit of the condenser at least every 15 minutes and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the daily average organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
	b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND	i. Maintaining the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND
	Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test; AND	ii. Maintaining the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND
	Achieve greater than or equal to the pressure reduction during the adsorption bed regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit.	iii. Achieving greater than or equal to the pressure reduction during the regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iv. Keeping the applicable records required in § 63.998.[1]

For each existing, reconstructed, and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.[1]
	b. Replace the existing adsorbent in each segment of the bed before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Keeping the applicable records required in § 63.998.[1]
7. A flare to comply with an emission limit in Table 2 to this subpart.	a. Except as specified in item 7.e of this table, maintain a pilot flame or flare flame in the flare at all times that vapors may be vented to the flare (§ 63.11(b)(5)); AND	i. Continuously operating a device that detects the presence of the pilot flame or flare flame; AND ii. Keeping the applicable records required in § 63.998.[1]
	b. Except as specified in item 7.e of this table, maintain a flare flame at all times that vapors are being vented to the flare (§ 63.11(b)(5)); AND	i. Maintaining a flare flame at all times that vapors are being vented to the flare; AND ii. Keeping the applicable records required in § 63.998.[1]
	c. Except as specified in item 7.e of this table, operate the flare with no visible emissions, except for up to 5 minutes in any 2 consecutive hours (§ 63.11(b)(4)); AND EITHER	i. Operating the flare with no visible emissions exceeding the amount allowed; AND ii. Keeping the applicable records required in § 63.998.[1]
	d.1. Except as specified in item 7.e of this table, operate the flare with an exit velocity that is within the applicable limits in § 63.11(b)(7) and (8) and with a net heating value of the gas being combusted greater than the applicable minimum value in § 63.11(b)(6)(ii); OR	i. Operating the flare within the applicable exit velocity limits; AND ii. Operating the flare with the gas heating value greater than the applicable minimum value; AND iii. Keeping the applicable records required in § 63.998.[1]
	d.2. Except as specified in item 7.e of this table, adhere to the requirements in § 63.11(b)(6)(i).	i. Operating the flare within the applicable limits in 63.11(b)(6)(i); AND ii. Keeping the applicable records required in § 63.998.[1]
	e. Beginning no later than the compliance dates specified in § 63.2342(e), comply with the requirements in § 63.2380 instead of the requirements in § 63.11(b).	i. Operating the flare with the applicable limits in § 63.2380; AND ii. Keeping the applicable records required in § 63.2390(h).
8. Another type of control device to comply with an emission limit in Table 2 to this subpart.	Submit a monitoring plan as specified in §§ 63.995(c) and 63.2366(b) and monitor the control device in accordance with that plan.	Submitting a monitoring plan and monitoring the control device according to that plan.

[1] Beginning no later than the compliance dates specified in § 63.2342(e), the referenced provisions specified in § 63.2346(l) do not apply.

■ 31. Table 10 to subpart EEEE of Part 63 is revised to read as follows:

Table 10 to Subpart EEEE of Part 63—Continuous Compliance With Work Practice Standards

As stated in §§ 63.2378(a) and (b) and 63.2386(c)(6), you must show continuous compliance with the work practice standards for existing, reconstructed, or new affected sources according to the following table:

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
1. Internal floating roof (IFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity, and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5, or Table 2b to this subpart, items 1 through 3.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR once per year (§ 63.1063(d)(2)); AND ii. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(1), (d)(1), and (e)); AND iii. Keeping the tank records required in § 63.1065.
2. External floating roof (EFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5, or Table 2b to this subpart, items 1 through 3.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each EFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(2), (d), and (e)); AND ii. Performing seal gap measurements on the secondary seal of each EFR at least once every year, and on the primary seal of each EFR at least every 5 years (§ 63.1063(c)(2), (d), and (e)); AND iii. Keeping the tank records required in § 63.1065.
3. IFR or EFR tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5, or Table 2b to this subpart, items 1 through 3.	a. Repair the conditions causing storage tank inspection failures (§ 63.1063(e)).	i. Repairing conditions causing inspection failures: Before refilling the storage tank with organic liquid, or within 45 days (or up to 105 days with extensions) for a tank containing organic liquid; AND ii. Keeping the tank records required in § 63.1065(b).
4. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Ensure that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.	i. Ensuring that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.
	b. Install and, during the loading of organic liquids, operate a vapor balancing system.	i. Monitoring each potential source of vapor leakage in the system quarterly during the loading of a transport vehicle or the filling of a container using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards
	c. Route emissions to a fuel gas system or back to a process.	i. Continuing to meet the requirements specified in § 63.984(b)
5. Equipment leak component, as defined in § 63.2406, that operates in organic liquids service at least 300 hours per year.	a. Comply with § 63.2346(l) and the requirements of 40 CFR part 63, subpart TT, UU, or H.	i. Carrying out a leak detection and repair program in accordance with the subpart selected from the list in item 5.a of this table
6. Storage tank at an existing, reconstructed, or new affected source meeting any of the tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6, or Table 2b to this subpart, items 1 through 3.	a. Route emissions to a fuel gas system or back to the process.	i. Continuing to meet the requirements specified in § 63.984(b)

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
	b. Install and, during the filling of the storage tank with organic liquids, operate a vapor balancing system.	i. Except for pressure relief devices, monitoring each potential source of vapor leakage in the system, including, but not limited to pumps, valves, and sampling connections, quarterly during the loading of a storage tank using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards. For pressure relief devices, comply with § 63.2346(a)(4)(v). If no loading of a storage tank occurs during a quarter, then monitoring of the vapor balancing system is not required

■ 32. Table 11 to subpart EEEE of Part 63 is revised to read as follows:

Table 11 to Subpart EEEE of Part 63—Requirements for Reports

As stated in § 63.2386(a), (b), and (f), you must submit compliance reports and startup, shutdown, and malfunction reports according to the following table:

You must submit a(n) . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report or Periodic Report	a. The information specified in § 63.2386(c), (d), (e). If you had a SSM during the reporting period and you took actions consistent with your SSM plan, the report must also include the information in § 63.10(d)(5)(i) except as specified in item 1.e of this table; AND.	Semiannually, and it must be postmarked or electronically submitted by January 31 or July 31, in accordance with § 63.2386(b).
	b. The information required by 40 CFR part 63, subpart TT, UU, or H, as applicable, for pumps, valves, and sampling connections; AND.	See the submission requirement in item 1.a of this table.
	c. The information required by § 63.999(c); AND.	See the submission requirement in item 1.a of this table.
	d. The information specified in § 63.1066(b) including: Notification of inspection, inspection results, requests for alternate devices, and requests for extensions, as applicable.	See the submission requirement in item 1.a of this table.
	e. Beginning no later than the compliance dates specified in § 63.2342(e), the requirement to include the information in § 63.10(d)(5)(i) no longer applies..	
2. Immediate SSM report if you had a SSM that resulted in an applicable emission standard in the relevant standard being exceeded, and you took an action that was not consistent with your SSM plan.	a. The information required in § 63.10(d)(5)(ii)	i. Except as specified in item 2.a.ii of this table, by letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)). ii. Beginning no later than the compliance dates specified in § 63.2342(e), item 2.a.i of this table no longer applies.

■ 33. Table 12 to subpart EEEE of Part 63 is revised to read as follows:

Table 12 to Subpart EEEE of Part 63—Applicability of General Provisions to Subpart EEEE

As stated in §§ 63.2382 and 63.2398, you must comply with the applicable General Provisions requirements as follows:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.1	Applicability	Initial applicability determination; Applicability after standard established; Permit requirements; Extensions, Notifications.	Yes.

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations.	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; Circumvention, Severability.	Yes.
§ 63.5	Construction/Reconstruction.	Applicability; Applications; Approvals	Yes.
§ 63.6(a)	Compliance with Standards/O&M Applicability.	GP apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in this subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in this subpart or by equivalent time period (*e.g.,* 3 years).	Yes.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)(i)	Operation and Maintenance.	Operate to minimize emissions at all times	Yes, before July 7, 2023. No, beginning on and after July 7, 2023. See § 63.2350(d) for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance.	Correct malfunctions as soon as practicable	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.6(e)(1)(iii)	Operation and Maintenance.	Operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	SSM Plan	Requirement for SSM plan; content of SSM plan; actions during SSM.	Yes, before July 7, 2023; however, (1) the 2-day reporting requirement in paragraph § 63.6(e)(3)(iv) does not apply and (2) § 63.6(e)(3) does not apply to emissions sources not requiring control. No, beginning on and after July 7, 2023.
§ 63.6(f)(1)	Compliance Except During SSM.	You must comply with emission standards at all times except during SSM.	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	Opacity/Visible Emission Standards.	You must comply with opacity and visible emission standards at all times except during SSM.	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.6(h)(2)–(9)	Opacity/Visible Emission Standards.	Requirements for compliance with opacity and visible emission standards.	No; except as it applies to flares for which Method 22 observations are required as part of a flare compliance assessment.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt any source from requirement to comply with this subpart.	Yes.
§ 63.7(a)(2)	Performance Test Dates.	Dates for conducting initial performance testing; must conduct 180 days after compliance date.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test.	Yes.

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.7(b)(2)	Notification of Rescheduling.	If you have to reschedule performance test, must notify Administrator of rescheduled date as soon as practicable and without delay.	Yes.
§ 63.7(c)	Quality Assurance (QA)/Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM.	Yes, before July 7, 2023. No, beginning on and after July 7, 2023. See § 63.2354(b)(6).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes; however, for transfer racks per §§ 63.987(b)(3)(i)(A)–(B) and 63.997(e)(1)(v)(A)–(B) provide exceptions to the requirement for test runs to be at least 1 hour each.
§ 63.7(e)(4)	Authority to Require Testing.	Administrator has authority to require testing under CAA section 114 regardless of § 63.7 (e)(1)–(3).	Yes.
§ 63.7(f)	Alternative Test Method.	Procedures by which Administrator can grant approval to use an intermediate or major change, or alternative to a test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status; keep data for 5 years.	Yes, except this subpart specifies how and when the performance test and performance evaluation results are reported.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring of Flares	Monitoring requirements for flares in § 63.11	Yes, before July 7, 2023; however, flare monitoring requirements in § 63.987(c) also apply before July 7, 2023. No, beginning on and after July 7, 2023. See § 63.2380.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each affected source or after combined with another affected source before it is released to the atmosphere provided the monitoring is sufficient to demonstrate compliance with the standard; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM.	Keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.8(c)(1)(ii)	CMS malfunction not in SSM plan.	Keep the necessary parts for routine repairs if CMS malfunctions.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	Develop a written SSM plan for CMS	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.8(c)(2)–(3)	Monitoring System Installation.	Must install to get representative emission or parameter measurements; must verify operational status before or at performance test.	Yes.

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts; COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes; however, COMS are not applicable.
§ 63.8(c)(5)	COMS Minimum Procedures.	COMS minimum procedures	No.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high level calibration check requirements. Out-of-control periods.	Yes, but only applies for CEMS. Subpart SS of this part provides requirements for CPMS.
§ 63.8(d)(1)–(2)	CMS Quality Control	Requirements for CMS quality control	Yes, but only applies for CEMS. Subpart SS of this part provides requirements for CPMS.
§ 63.8(d)(3)	CMS Quality Control	Must keep quality control plan on record for 5 years; keep old versions.	Yes, before July 7, 2023, but only applies for CEMS. Subpart SS of this part provides requirements for CPMS. No, beginning on and after July 7, 2023. See § 63.2366(c).
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, but only applies for CEMS, except this subpart specifies how and when the performance evaluation results are reported.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes, but subpart SS of this part also provides procedures for approval of CPMS.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least four equally spaced data points; data that cannot be used in average.	Yes; however, COMS are not applicable.
§ 63.9(a)	Notification Requirements.	Applicability and State delegation	Yes.
§ 63.9(b)(1)–(2), (4)–(5).	Initial Notifications	Submit notification within 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construction/reconstruction, notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate (BACT/LAER).	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test.	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification about use of COMS data; notification that exceeded criterion for relative accuracy alternative.	Yes; however, there are no opacity standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents due 60 days after end of performance test or other compliance demonstration, except for opacity/visible emissions, which are due 30 days after; when to submit to federal vs. state authority.	Yes; however, (1) there are no opacity standards and (2) all initial Notification of Compliance Status, including all performance test data, are to be submitted at the same time, either within 240 days after the compliance date or within 60 days after the last performance test demonstrating compliance has been completed, whichever occurs first.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	No. These changes will be reported in the first and subsequent compliance reports.
§ 63.10(a)	Recordkeeping/Reporting.	Applies to all, unless compliance extension; when to submit to federal vs. state authority; procedures for owners of more than one source.	Yes.

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.10(b)(1)	Recordkeeping/Reporting.	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)	Records Related to Startup and Shutdown.	Occurrence of each for operations (process equipment).	Yes, July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.10(b)(2)(ii)	Recordkeeping Relevant to Malfunction Periods and CMS.	Occurrence of each malfunction of air pollution equipment.	Yes, before July 7, 2023. No, beginning on and after July 7, 2023. See § 63.2390(f).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Maintenance on air pollution control equipment	Yes.
§ 63.10(b)(2)(iv)	Recordkeeping Relevant to SSM Periods and CMS.	Actions during SSM	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.10(b)(2)(v)	Recordkeeping Relevant to SSM Periods and CMS.	Actions during SSM	No.
§ 63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out-of-control periods.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1)–(14)	Records	Additional records for CMS	Yes.
§ 63.10(c)(15)	Records	Additional records for CMS	Yes, before July 7, 2023. No, beginning on and after July 7, 2023.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to federal or state authority	No. This subpart specifies how and when the performance test results are reported.
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	SSM Reports	Contents and submission	Yes, before July 7, 2023. No, beginning on and after July 7, 2023. See § 63.2386(d)(1)(xiii).
§ 63.10(e)(1)–(2)	Additional CMS Reports.	Must report results for each CEMS on a unit; written copy of CMS performance evaluation; two-three copies of COMS performance evaluation.	Yes, except this subpart specifies how and when the performance evaluation results are reported; however, COMS are not applicable.
§ 63.10(e)(3)(i)–(iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	Yes; however, note that the title of the report is the compliance report; deviations include excess emissions and parameter exceedances.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions or parameter monitoring exceedance (now defined as deviations); provision to request semiannual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.
§ 63.10(e)(3)(vi)–(viii).	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in §§ 63.10(c)(5)–(13) and 63.8(c)(7)–(8).	No. This subpart specifies the reported information for deviations within the compliance reports.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data.	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.11(b)	Flares	Requirements for flares	Yes, before July 7, 2023; § 63.987 requirements apply, and the section references § 63.11(b). No, beginning on and after July 7, 2023. See § 63.2380.
§ 63.11(c), (d), and (e).	Control and work practice requirements.	Alternative work practice for equipment leaks	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information.	Public and confidential information	Yes.

[FR Doc. 2020–05900 Filed 7–6–20; 8:45 am]

BILLING CODE 6560–50–P

(mm) *Redesignation.* Approval—On February 11, 2020, Wisconsin submitted a request to redesignate the Shoreline Sheboygan County area to attainment of the 2008 8-hour ozone standard. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. The ozone maintenance plan also establishes 2025 and 2032 Motor Vehicle Emission Budgets (MVEBs) for the area. The 2025 MVEBs for the Inland Sheboygan County area are 0.50 tons per hot summer day for VOC and 1.00 tons per hot summer day for NO_X. The 2032 MVEBs for the Inland Sheboygan County area are 0.36 tons per hot summer day for VOC and 0.77 tons per hot summer day for NO_X.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

■ 5. In § 81.350, the table entitled "Wisconsin—2008 8-Hour Ozone NAAQS [Primary and Secondary]" is amended by revising the entry for "Shoreline Sheboygan County, WI" to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*		*	*
Shoreline Sheboygan County, WI [2 5]	7/10/2020	Attainment.		
Sheboygan County (part):				
Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Highway 43, Wilson Lima Road, Minderhaud Road, County Road KK/Town Line Road, N 10th Street, County Road A S/Center Avenue, Gibbons Road, Hoftiezer Road, Highway 32, Palmer Road/Smies Road/Palmer Road, Amsterdam Road/County Road RR, Termaat Road.				
* * * *	*		*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.
[5] Attainment date is extended to July 20, 2019 for both Inland Sheboygan County, WI, and Shoreline Sheboygan County, WI, nonattainment areas.

* * * * *

[FR Doc. 2020–14691 Filed 7–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0074; FRL–10006–88–OAR]

RIN 2060–AT86

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review

Correction

63.14 [Corrected]

In rule document 2020–05900, appearing on pages 40740 through 40791 in the issue of Tuesday, July 7, 2020, make the following corrections.

■ 1. On page 40760, in the second column, amendatory instruction 2 d. for § 63.14 should read as follows:

"■ d. By redesignating paragraphs (h)(102) through (113) as paragraphs (h)(104) through (115), respectively;".

§ 63.14 Incorporations by reference. [Corrected]

■ 2. On the same page, in the same column, the section heading for 63.14 should read as set forth above.

[FR Doc. C1–2020–05900 Filed 7–9–20; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0098; FRL–10007–73]

Tetraethyl Orthosilicate; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of tetraethyl orthosilicate when used as an inert ingredient (binder) in pesticides applied to growing crops and raw agricultural commodities after harvest and pesticides applied to animals. Exponent on behalf of LNouvel, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of tetraethyl orthosilicate when used in accordance with the terms of this exemption.

DATES: This regulation is effective July 10, 2020. Objections and requests for hearings must be received on or before September 8, 2020, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID)

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 21, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 15, 2020.

Mary Walker,

Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. In § 52.570, amend the table in paragraph (c) by revising the entry for ''391–3–1–.01'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	9/26/2019	7/22/2020, [Insert citation of publication].	Except the first paragraph, sections (a)–(nn), (pp)–(ccc), (eee)–(jjj), (nnn)–(bbbb), (dddd)–(kkkk), (mmmm), (rrrr)–(ssss), approved on 12/4/2018 with a State-effective date of 7/20/2017; sections (ddd) and (cccc) approved on 2/2/1996 with a State-effective date of 11/20/1994; (nnnn), approved on 1/5/2017 with a State-effective date of 8/14/2016; and sections (oooo), (pppp), (qqqq)1., and (qqqq)3. through (qqqq)8., which are not in the SIP.
*	*	*	*	*

* * * * *

[FR Doc. 2020–15701 Filed 7–21–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0074; FRL–10012–57–OAR]

RIN 2060–AT86

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: On July 7, 2020, the U.S. Environmental Protection Agency (EPA) revised the National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) Residual Risk and Technology Review. A set of amendatory instructions and one reference to a standard approved for incorporation by reference were removed during the review and publication process but the related standard reference was not removed. In addition, subsequent amendatory instructions were not properly revised to reflect the edits. This document corrects the final regulations.

DATES: This final rule is effective on July 22, 2020. The incorporation by reference (IBR) of certain publications listed in the rule was approved by the Director of the Federal Register as of July 7, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Neil Feinberg, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2214; fax number: (919) 541–0516; and email address: *feinberg.stephen@epa.gov*

SUPPLEMENTARY INFORMATION: In the final rule published on July 7, 2020 (85 FR 40740), the EPA removed the instructions to redesignate a series of paragraphs in 40 CFR 63.14 (the centralized IBR section) to add ASTM D6378–18a, Standard Test Method for Determination of Vapor Pressure (VPX) of Petroleum Products, Hydrocarbons, and Hydrocarbon-Oxygenate Mixtures (Triple Expansion Method), approved December 1, 2018, but did not remove the standard from use in 40 CFR 63.2406. As a result, not only was the standard improperly added to 40 CFR 63.2046, but revisions to two existing paragraphs in 40 CFR 63.14 (to ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (Approved October 1, 2004) and ASTM D6420–18, Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry (Approved November 1,

2018)) could not be carried out. This document corrects the centralized IBR section at 40 CFR 63.14 by restating the instruction that could not be applied to the CFR and removes ASTM D6378–18a from 40 CFR 63.2046.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Karl Moor,

Deputy Assistant Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Redesignating paragraphs (h)(90) through (h)(102) as paragraphs (h)(91) through (h)(103).
■ b. Adding and reserving new paragraph (h)(90); and
■ c. Revising newly redesignated paragraphs (h)(92) and (94).

The addition and revisions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(90) [Reserved]

* * * * *

(92) ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (Approved October 1, 2004), IBR approved for §§ 63.457(b), 63.772(a), 63.772(e), 63.1282(a) and (d), and table 8 to subpart HHHHHHH.

* * * * *

(94) ASTM D6420–18, Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry (Approved November 1, 2018), IBR approved for §§ 63.987(b), 63.997(e), 63.2354(b), and table 5 to subpart EEEE.

* * * * *

§ 63.2406 [Amended]

■ 3. In § 63.2406, amend the definition "Annual average true vapor pressure," by adding "or" to the end of paragraph (1) and removing and reserving paragraph (2).

[FR Doc. 2020–15746 Filed 7–21–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 17–317 and 17–105, FCC 20–14]

In the Matter of Electronic Delivery of MVPD Communications; Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years. the information collection requirements associated with the Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, Report and Order. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the information collection requirements.

DATES: The amendatory instruction 2.b., 47 CFR 76.64(h)(5), published at 85 FR 22646, April 23, 2020, is effective on July 31, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on July 7, 2020, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 20–14, published at 84 FR 22646, April 23, 2020. The OMB Control Number is 3060–0844. The Commission publishes this document as an announcement of the effective date of the information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on July 7, 2020, for the information collection requirements contained in the Commission's rules.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers is 3060–0844.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0844.

OMB Approval Date: July 7, 2020.

OMB Expiration Date: July 31, 2023.

Title: Carriage of Transmissions of Television Broadcast Stations: Section 76.56(a), Carriage of Qualified Noncommercial Educational Stations; Section 76,57, Channel Positioning, Section 76.61(a)(1)–(2), Disputes Concerning Carriage, Section 76.64, Retransmission Consent.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,902 respondents and 7,082 responses.

Estimated Time per Response: 0.5 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this action is contained in Sections 1, 4(i) and (j), 325, 338, 614, 615, 631, 632, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 325, 338, 534, 535, 551, 552, and 573.

Total Annual Burden: 4,486 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Under Section 614 of the Communications Act and the implementing rules adopted by the Commission, commercial TV broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's television market. Under Section 325(b) of the Communications Act, commercial TV broadcast stations are entitled to negotiate with local cable systems for carriage of their signal pursuant to retransmission consent agreements in lieu of asserting must carry rights. This system is therefore referred to as "Must-Carry and Retransmission Consent." Under Section 615 of the Communications Act, noncommercial educational (NCE) stations are also entitled to assert mandatory carriage rights on cable systems located within

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0416; FRL–10006–74–OAR]

RIN 20660–AU22

National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Paper and Other Web Coating (POWC) source category regulated under national emission standards for hazardous air pollutants (NESHAP). The Agency is finalizing the proposed determination that risks due to emissions of air toxics are acceptable from this source category and that the current NESHAP provides an ample margin of safety to protect public health. Further, the U.S. Environmental Protection Agency (EPA) identified no new cost-effective controls under the technology review that would achieve significant further emissions reductions, and, thus, is finalizing the proposed determination that no revisions to the standards are necessary based on developments in practices, processes, or control technologies. In addition, the Agency is taking final action addressing startup, shutdown, and malfunction (SSM). These final amendments address emissions during SSM events, add a compliance demonstration equation that accounts for retained volatiles in the coated web; add repeat testing and electronic reporting requirements; and make technical and editorial changes. The EPA is making these amendments to improve the effectiveness of the NESHAP, and although these amendments are not expected to reduce emissions of hazardous air pollutants (HAP), they will improve monitoring, compliance, and implementation of the rule.

DATES: This final rule is effective on July 9, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 9, 2020. The IBR of certain other publications listed in the rule is approved by the Director of the Federal Register as of December 4, 2002.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0416. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Kelley Spence, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3158; fax number: (919) 541–0516; and email address: *spence.kelley@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2221A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. The EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HI hazard index
IBR incorporation by reference
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NESHAP national emission standards for hazardous air pollutants
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PDF portable document format
POWC paper and other web coating
ppm parts per million
ppmv parts per million by volume
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
U.S.C. United States Code
VCS voluntary consensus standards
VOC volatile organic compound(s)

Background information. On September 19, 2019, the EPA proposed determinations regarding the POWC NESHAP RTR and proposed revisions to the NESHAP to address emissions during SSM events and improve monitoring, compliance, and implementation. In this action, the EPA is finalizing the proposed RTR determinations and additional revisions for the rule. The Agency summarizes the more significant comments we received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *National Emissions Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal,* in Docket ID No. EPA–HQ–OAR–2018–0416. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?

B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the POWC source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the POWC source category in our September 19, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the POWC source category?
B. What are the final rule amendments based on the technology review for the POWC source category?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the POWC source category?
A. Residual Risk Review for the POWC Source Category
B. Technology Review for the POWC Source Category
C. Revisions to the SSM Provisions for the POWC Source Category
D. Method For Determining Volatile Organic Matter Retained in the Coated Web
E. Periodic Performance Testing
F. Electronic Reporting
G. Temperature Sensor Validation
H. Operating Parameter Clarification
I. IBR Under 1 CFR part 51 for the POWC Source Category
J. Technical and Editorial Changes
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code
Paper and Other Web Coating.	322220, 322121, 326113, 326112, 325992, 327993

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/paper-and-other-web-coating-national-emission-standards-hazardous-0.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 8, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, the Agency must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly

referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the Agency must also consider control options that are more stringent than the floor under CAA section 112(d)(2). The EPA may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, the EPA must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, the EPA must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 49382 (September 19, 2019).

B. What is the POWC source category and how does the NESHAP regulate HAP emissions From the source category?

The EPA promulgated the POWC NESHAP on December 4, 2002 (67 FR 72330). The standards are codified at 40 CFR part 63, subpart JJJJ. The POWC source category includes new and existing facilities that coat paper and other web substrates that are major sources of HAP emissions. For purposes of the regulation, a web is defined as a continuous substrate that is capable of being rolled at any point during the coating process. Further, a web coating line is any number of work stations, of which one or more applies a continuous layer of coating material along the entire width of a continuous web substrate or any portion of the width of the web substrate, and any associated curing/drying equipment between an unwind (or feed) station and a rewind (or cutting) station. The source category covered by this NESHAP currently includes 168 facilities.

Web coating operations covered by other NESHAP (*i.e.,* Printing and Publishing, 40 CFR part 63, subpart KK; Magnetic Tape, 40 CFR part 63, subpart EE; Metal Coil Coating, 40 CFR part 63, subpart SSSS; Fabric Coating, 40 CFR part 63, subpart OOOO), and research and development lines are excluded from the requirements of 40 CFR part 63, subpart JJJJ. In addition, specific process exclusions include lithography, screen printing, letterpress, and narrow web flexographic printing.

Facilities subject to the POWC NESHAP utilize low-solvent coatings, add-on controls, or a combination of both to meet the organic HAP emission limits, as described in the preamble to the proposed rule (84 FR 49385, September 19, 2019). The NESHAP also includes various operating limits, initial and continuous compliance requirements, and recordkeeping and reporting requirements for the POWC source category. The EPA reviewed these requirements and are updating them as part of this action in conjunction with finalizing the RTR for this source category

C. What changes did we propose for the POWC source category in our September 19, 2019, proposal?

On September 19, 2019, the EPA published a proposed rule in the **Federal Register** for the POWC NESHAP, 40 CFR part 63, subpart JJJJ, that took into consideration the RTR analyses. As discussed in the preamble to the proposed rule, the technology review did not identify any developments in practices, processes, or control technologies that were widely applicable to the industry that would significantly reduce HAP emissions, and, therefore, the Agency did not propose any changes to the NESHAP based on the technology review. Further, as discussed in the preamble to the proposed rule, the risk analysis indicated no changes to the NESHAP are necessary to reduce risk to an acceptable level, to provide an ample margin of safety to protect public health, or to prevent an adverse environmental effect. In addition to and separate from the proposed determinations based on our RTR analyses, the EPA proposed the following:

- Revisions to the SSM provisions of the NESHAP to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- a new compliance calculation to account for retained volatile organic content retained in the coated web;
- new periodic air emissions testing requirements for facilities that use non-recovery control devices;
- new reporting provisions requiring affected sources to electronically submit initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports;
- new temperature sensor validation requirements;
- operating parameter clarifications;

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

- IBR of several test methods; and
- technical and editorial changes to remove the Occupational Safety and Health Administration (OSHA)-defined carcinogens reference, clarify compliance demonstration options, clarify the definition of coating materials, add a web coating line usage threshold, add a printing activity exemption, clarify testing requirements, change applicability of sources using only non-HAP coatings, clarify oxidizer temperature monitoring compliance, and revise compliance report content requirements.

III. What is included in this final rule?

This action is finalizing the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the POWC source category. This action is also finalizing other changes to the NESHAP, including revisions to the SSM requirements; a compliance calculation to account for retained volatile organic content retained in the coated web; periodic testing requirements for add-on control devices; electronic submittal of initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports; temperature sensor validation requirements; operating parameter clarifications; IBR of several test methods; and various technical and editorial changes.

A. What are the final rule amendments based on the risk review for the POWC source category?

The EPA proposed no changes to the POWC NESHAP based on the risk review conducted pursuant to CAA section 112(f). The EPA is finalizing the proposed determination that risks from the source category are acceptable, considering all of the health information and factors evaluated, and also considering risk estimation uncertainty. The Agency is also finalizing the proposed determination that revisions to the current standards are not necessary to reduce risk to an acceptable level, to provide an ample margin of safety to protect public health, or to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that affected the proposed determinations. Therefore, the EPA is finalizing the proposed determination and making no revisions to the NESHAP based on the analyses conducted under CAA section 112(f), and we are readopting the standards.

B. What are the final rule amendments based on the technology review for the POWC source category?

In the proposed rule, the EPA proposed to determine that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. The EPA received no new data or other information during the public comment period that affected our proposed determinations. Therefore, the EPA is finalizing the proposed determination and making no revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

The EPA proposed amendments to the POWC NESHAP to remove and revise provisions related to SSM. The EPA is finalizing the amendments, as proposed, with minor clarifications with this rulemaking. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.D of the preamble to the proposed rule (84 FR 49382, September 19, 2019), the amended POWC NESHAP requires that the standards apply at all times (see 40 CFR 63.3320(b)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). In addition to eliminating the SSM exemption, the EPA has removed the requirement for sources to develop and maintain an SSM plan, as well as certain recordkeeping and reporting provisions related to the SSM exemption.

The EPA is finalizing the SSM provisions as proposed without setting a separate standard for startup and shutdown as discussed in the preamble to the proposed rule in section IV.D. Further, the EPA is not finalizing standards for malfunctions. As discussed in the September 19, 2019, proposal, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For this action, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.D of the preamble to the proposed rule for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event.

As explained in more detail below, the EPA is finalizing revisions to the General Provisions table to 40 CFR part 63, subpart JJJJ, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, the EPA is finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, the EPA is finalizing the proposed amendments to revise the reporting and recordkeeping requirements as they relate to malfunctions, as further described below. As discussed in the preamble to the proposed rule, these revisions are consistent with the requirement in 40 CFR 63.3320(b) that the standards apply at all times. Refer to sections IV.C of this preamble for a detailed discussion of these amendments.

D. What other changes have been made to the NESHAP?

Other changes that have been made to the regulation include incorporation of a compliance calculation to account for retained volatile organic content retained in the coated web; periodic performance testing requirements; electronic submittal of initial notifications, notification of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports; temperature sensor validation requirements; operating parameter clarifications; IBR of several test methods; and various technical and editorial changes. The EPA's analyses and changes related to these issues are discussed below.

Other changes to the NESHAP that do not fall into the categories in the previous section include:

- *Method for determining volatile organic matter retained in the coated web.* The EPA is finalizing the addition of an equation to account for volatile organic matter retained in the coated

web as discussed in section IV.D of this preamble.

• *Periodic performance testing.* The EPA is finalizing a periodic testing requirement for non-recovery add-on control devices to ensure continued compliance, as discussed in section IV.E of this preamble.

• *Electronic reporting.* The EPA is finalizing amendments to the reporting requirements to require electronic reporting for initial notifications, notifications of compliance status, semiannual compliance reports, performance test reports, and performance evaluation reports, as discussed in section IV.F of this preamble.

• *Temperature sensor validation.* The EPA is finalizing amendments to remove the temperature sensor calibration requirement and replace it with validation requirements to ensure continued compliance, as discussed in section IV.G of this preamble.

• *Operating parameter clarification.* The EPA is finalizing, as proposed, an operating parameter clarification, as discussed in section IV.H of this preamble.

• *IBR under 1 CFR part 51.* The EPA is finalizing the IBR of several test methods, as discussed in section IV.I of this preamble.

• *Technical and editorial changes.* The EPA is finalizing technical and editorial changes, as discussed in section IV.J of this preamble.

E. What are the effective and compliance dates of the standards?

The revisions to the NESHAP being promulgated in this action are effective on July 9, 2020.[2] The compliance date for affected existing facilities is 365 days after the effective date of the final rule, with the exception of electronic reporting of semiannual reports. Affected source owners and operators that commence construction or reconstruction after September 19, 2019, must comply with all requirements of the subpart, including the amendments being finalized with this action (except for the electronic reporting of semiannual reports), no later than the effective date of the final rule or upon startup, whichever is later. All affected sources must use the Compliance and Emissions Data Reporting Interface (CEDRI) reporting template for semiannual reports for the subsequent semiannual reporting period after the form has been available in CEDRI for 1 year. All affected existing facilities must meet the current requirements of 40 CFR part 63, subpart JJJJ until the applicable compliance date of the amended rule.

As explained in the preamble to the proposed rule, the EPA proposed a compliance period of 180 days for existing sources because the amendments would impact ongoing compliance requirements (84 FR 79406, September 19, 2019). Two significant amendments, the removal of the SSM exemption and the addition of electronic reporting, were determined to require additional time for changing reporting and recordkeeping systems. As stated in the preamble to the proposed rule, the EPA's experience with similar industries that are required to convert reporting mechanisms; install necessary hardware and software; become familiar with the process of submitting performance test results electronically through the EPA's CEDRI; test these new electronic submission capabilities; reliably employ electronic reporting; and convert logistics of reporting processes to different time-reporting parameters, shows that a time period of a minimum of 90 days, and more typically, 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that owners or operators of this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule, and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose.

In the preamble to the proposed rule, the EPA solicited comment on whether the 180-day compliance period was reasonable and specifically requested sources provide information regarding the specific actions they would need to undertake to comply with the amended rule. The EPA also noted that information provided in response to this request for comment could result in changes to the proposed compliance date (84 FR 49406, September 19, 2019). Comments were provided suggesting that 180 days was not enough time to comply with the proposed changes and that a minimum of 365 days was needed. Commenters noted that tasks that would need to be completed during the compliance period were: Develop site-specific implementation plan for changes to add-on control device requirements; review startup and shutdown procedures; reprogram electronic systems and automated alarms consistent with the removal of the SSM provisions; revise the oxidizer temperature operating limit; rework recordkeeping and reporting procedures and systems to match the new CEDRI form; develop and communicate guidance to ensure consistent implementation across a company's facilities; prepare permit applications; acquire new permits; and develop and provide training for facility staff on the amended requirements.

The EPA reviewed the information provided by commenters regarding tasks needed to be completed during the compliance period and agrees that 180 days is not sufficient time, particularly for implementing the changes to add-on control device requirements and for reworking recordkeeping and reporting procedures to comply with the amendments, including the removal of the SSM exemption. This source category needs additional time for these changes because of the complexity of the compliance calculations and the potential for a large variety of products to be produced on the same equipment (which requires multiple startup and shutdown events on a regular basis). From our assessment of the time frame needed for compliance with the entirety of the revised requirements and considering the public comments received, the EPA considers a period of 365 days to be the most expeditious compliance period practicable for the POWC source category, and, thus, the EPA is finalizing that existing affected sources must be in compliance with all of the POWC NESHAP amended requirements within 365 days of the effective date.

Additionally, comments were received from multiple commenters requesting more time to develop and train on the CEDRI semiannual reporting template. The Agency agrees with the commenters that more time is needed to accurately develop the template and to train facility staff on its use. As such, the EPA is finalizing that the electronic reporting template is not required to be used for semiannual reports until it has been available in CEDRI for 1 year. To prevent two separate reports for one semiannual reporting period, the Agency is finalizing that the reporting template should be used for the first full semiannual reporting period after the template has been available in CEDRI for 1 year. For example, if the template

[2] This final action is not a "major rule" as defined by 5 U.S.C. 804(2), so the effective date of the final rule is the promulgation date as specified in CAA section 112(d)(10).

becomes available in CEDRI on March 13, 2020, it would be used beginning with the report submitted for the July 2021–December 2021 reporting period.

IV. What is the rationale for our final decisions and amendments for the POWC source category?

For each issue, this section provides a description of what the EPA proposed and what the EPA is finalizing for the issue, a summary of key comments and responses, and the EPA's rationale for the final decisions and amendments. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket (Docket ID No. EPA–HQ–OAR–2018–0416).

A. Residual Risk Review for the POWC Source Category

1. What did we propose pursuant to CAA section 112(f) for the POWC source category?

A residual risk analysis was conducted for the POWC source category. Details of the risk analysis can be found in section IV of the preamble to the proposed rule (84 FR 49382, September 19, 2019). The results of the risk analyses, and decisions on risk acceptability and ample margin of safety, as well as the results of the environmental risk screening assessment, are summarized here.

For the POWC source category risk assessment conducted prior to proposal, the EPA estimated risks based on actual and allowable emissions from POWC surface coating operations. The risk results for the POWC source category indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are at least 14 times below the presumptive limit of acceptability of 100-in-1 million (*i.e.,* 1-in-10 thousand). The residual risk assessment for the POWC source category [3] estimated cancer incidence rate at 0.005 cases per year based on actual emissions. Approximately 4,300 people are exposed to a cancer risk equal to or above 1-in-1 million from the source category based upon actual emissions from 11 facilities.

The maximum chronic noncancer target organ-specific hazard index (TOSHI) due to inhalation exposures is less than 1 for actual and allowable emissions. The results of the acute screening analysis show that acute risks are below a level of concern for the source category considering the conservative assumptions used that err on the side of overestimating acute risk.

Multipathway screen values are below a level of concern for both carcinogenic and non-carcinogenic persistent and bioaccumulative HAP as well as emissions of lead compounds. Maximum cancer and noncancer risks due to ingestion exposures using health-protective risk screening assumptions are below the presumptive limit of acceptability. The maximum estimated excess cancer risk is below 1-in-1 million and the maximum noncancer hazard quotient (HQ) for mercury is less than 1 based upon the Tier 1 farmer/fisher exposure scenario.

The risk assessment for the POWC source category is contained in the report titled *Residual Risk Assessment for the Paper and Other Web Coating Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

2. How did the risk review change for the POWC source category?

Neither the risk assessment nor the Agency's determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the POWC source category have changed since the proposal was published on September 19, 2019. Therefore, the EPA is finalizing the risk review as proposed with no changes (84 FR 49398, September 19, 2019).

3. What key comments did we receive on the risk review, and what are our responses?

Comments were received regarding the risk assessment inputs the EPA used to conduct the POWC source category risk assessment. First, commenters noted that the acute emissions multipliers should be less than the value of 10 that the EPA used in its source category acute risk assessment. The EPA agrees with the commenters that an acute hourly multiplier of 10 likely over-estimates the emissions for this source category, however, we did not reanalyze acute risk for this final rulemaking because the risk values were already deemed acceptable using the multiplier of 10 for the proposal and would have been further reduced with a lower multiplier. Second, commenters noted that the EPA's risk assessment was "very conservative and likely overstates both annual and short-term HAP emission rates" because it used allowable emissions as actual emissions where no other data were available. The commenters are correct in their assessment that the EPA used allowable emissions as actual emissions when no other data were available to ensure that the risk analysis did not underestimate the risk posed by the source category. Because risk was acceptable using this conservative approach and would have been reduced further if actual emissions data had been available, the results of this approach further supports the EPA's conclusion.

Additionally, comments were received regarding the risk assessment methods the EPA used to conduct the POWC source category risk assessment. Two commenters stated that the formaldehyde health value used in the risk assessment was not based on the best available science, and that the EPA should have used the value from the Chemical Industry Institute of Technology (CIIT) biologically-based dose-response model. We disagree with the commenters that the EPA should have used the CIIT formaldehyde value because the EPA has a tiered prioritized list of appropriate health benchmark values for use in the residual risk assessment, and in general, the hierarchy places greater weight on the EPA-derived health benchmarks than those from other organizations. Even though the commenters claim the Integrated Risk Information System (IRIS) value the EPA used was too high (*i.e.,* the value over-estimated risk), the EPA proposed, and is finalizing, that the risks from formaldehyde from this source category are acceptable.

Comments were also received supporting the EPA's use of the 99th percentile concentration for modeling acute risk. Overall, the EPA received no comments or new information demonstrating a need for the Agency to reanalyze risk for the final rulemaking, and, therefore, the risk assessment conducted for the proposed rule was used to support the Agency's conclusions for the final rule.

Additionally, the EPA received several comments supporting our conclusions relating to risk acceptability and that additional emissions reductions are not necessary to provide an ample margin of safety. One commenter opposed our acceptability determination because the EPA did not consider risk from emission sources from other source categories. The EPA has the discretion to conduct a facility-wide risk assessment which factors in emissions from process equipment outside of the source category. The Agency examines facility-wide risks to provide additional context for the source category risks. The development of facility-wide risk estimates provides

[3] Residual Risk Assessment for the Paper and Other Web Coating Source Category in Support of the 2020 Risk and Technology Review Final Rule, Docket ID No. EPA–HQ–OAR–2018–0416.

additional information about the potential cumulative risks in the vicinity of the source category emission units as one means of informing potential risk-based decisions about the source category in question. The Agency recognizes that, because these risk estimates were derived from facility-wide emission estimates which have not generally been subjected to the same level of engineering review as the source category emission estimates, they may be less certain than our risk estimates for the source category in question, but they remain important for providing context as long as their uncertainty is taken into consideration in the process.

For detailed comment summaries regarding the residual risk review and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual risk (MIR) of 'approximately 1-in-10 thousand'" (see 54 FR 38045, September 14, 1989). The EPA weighs all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

The EPA evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, the EPA determined that the risks from the POWC source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), the EPA is finalizing the residual risk review as proposed.

B. Technology Review for the POWC Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the POWC source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the POWC source category are necessary (84 FR 49382, September 19, 2019). As described in section III.B of the preamble to the proposed rule, the technology review focused on identifying developments in practices, processes, and control technologies for reduction of HAP emissions from POWC facilities. In conducting the technology review, the EPA searched for and reviewed information on practices, processes, and control technologies that were not considered during the development of the POWC NESHAP. The review included a search of the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate (RACT/BACT/LAER) Clearinghouse database, reviews of title V permits for POWC facilities, site visits to facilities with POWC operations, and a review of relevant literature. We did not identify any developments in practices, processes, or control technologies that were widely applicable to the industry and would significantly reduce HAP emissions, and, therefore, the EPA did not propose any changes to the NESHAP based on the technology review. For more details on the technology review, see the *Technology Review Analysis for the Paper and Other Web Coating Source Category* memorandum, in the docket for this rulemaking (Docket ID Item No. EPA–HQ–OAR–2018–0416–0086).

2. How did the technology review change for the POWC source category?

No new information was received to change the Agency's conclusions with respect to the technology review since the proposal was published on September 19, 2019. Therefore, the EPA is finalizing the proposed determination that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6).

3. What key comments did we receive on the technology review, and what are our responses?

The EPA received no comments that identified improved control technology, work practices, operational procedures, process changes, or pollution prevention approaches to reduce emissions in the category since promulgation of the current NESHAP. The EPA received multiple supportive comments on the proposed technology review. For detailed comment summaries regarding the technology review and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach for the technology review?

The technology review did not identify any changes in practices, processes, or control technologies that would reduce emissions in this category. The EPA did not identify any control equipment not previously identified; improvements to existing controls; work practices, process changes, or operational procedures not previously considered; or any new pollution prevention alternatives for this source category. We evaluated all of the comments on the technology review and determined that no changes to the review are needed, therefore, the EPA is finalizing the determination that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum titled *Technology Review Analysis for the Paper and Other Web Coating Source Category,* in the docket for this rulemaking (Docket ID Item No. EPA–HQ–OAR–2018–0416–0086).

C. Revisions to the SSM Provisions for the POWC Source Category

1. What did we propose pursuant to SSM provisions for the POWC source category?

The EPA proposed amendments to the POWC NESHAP to remove provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 49399–49402, September 19, 2019).

2. How did the revisions to the SSM provisions change for the POWC source category?

The EPA is finalizing the SSM provisions as proposed with no changes.

3. What key comments did we receive on the SSM provisions, and what are our responses?

The EPA received several comments related to the proposed removal of the

SSM provisions. One commenter believed that the EPA is not required to change the regulation to require sources to meet the emission standards at all times, including periods of SSM. The EPA disagrees with the commenter's assertion. The EPA believes the *Sierra Club* decision (*Sierra Club* v. *EPA,* 551 F.3d 1019) held that emission limitations under CAA section 112 must apply continuously and meet minimum stringency requirements, even during periods of SSM. Consistent with this reading, the EPA proposed to remove the SSM exemption, and is finalizing the removal with this action. Other commenters were generally supportive of the SSM exemption removal and noted that it would likely have minimal impacts on regulated facilities. For detailed comment summaries regarding the removal of the SSM exemption and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the revisions to the SSM provisions?

The rationale for each of the amendments the EPA is finalizing to address SSM is in the preamble to the proposed rule (84 FR 49399–49402, September 19, 2019). After evaluation of the comments received, the EPA's rationale for revisions to the SSM provisions has not changed since proposal and we are finalizing the approach for removing the SSM provisions as proposed.

D. Method for Determining Volatile Organic Matter Retained in the Coated Web

1. What did we propose?

A portion of the HAP in coatings applied to paper and other web substrates may be retained in the web instead of being volatilized as air emissions. The existing NESHAP allows for the accounting of HAP retained in the coated web in 40 CFR 63.3360(g), but stakeholders indicated the requirement to "develop a testing protocol to determine the mass of volatile matter retained . . . and submit this protocol to the Administrator for approval" was vague and unworkable. As discussed in the preamble to the proposed rule (84 FR 49402, September 19, 2019), to provide clarity and reduce regulatory burden, the EPA proposed to incorporate the utilization of an emission factor to account for volatile organic matter retained in the coated web. As discussed in the preamble to the proposed rule, the EPA proposed new language to allow facilities to account for retained volatile organics in their compliance demonstration calculations without requiring the submittal of an alternative monitoring request to the EPA under the provisions of 40 CFR 63.8(f).

2. What changed since proposal?

Two changes have been made to the proposed provisions for determining volatile organic matter retained in the coated web. First, the EPA has clarified that "retained in the web" means "retained in the coated web or otherwise not emitted." Second, the EPA has added additional flexibility to allow any EPA-approved method, manufacturer's emissions test data, or mass balance approach using modified EPA Method 24 to be used to develop the emission factor.

3. What are the key comments and what are our responses?

The EPA received comments from four commenters supporting the addition of the emission factor approach for determining the amount of volatile matter retained in the web. Commenters suggested that the EPA clarify that "retained in the web" means "retained in the coated web or otherwise not emitted." The EPA agrees that this is an appropriate clarification and has revised the regulatory text accordingly.

The EPA also received comments suggesting that we allow other methods for developing the emission factor to determine the amount of volatile organic matter retained. Commenters specifically requested the ability to use other EPA-approved test methods, manufacturer's emissions test data, or mass-balance type approaches using modified EPA Method 24. The EPA agrees that allowing the use of these methods would provide flexibility and still appropriately characterize emissions from the web coating process.

For detailed comment summaries regarding the methods used to determine the volatile organic matter retained in the coated web and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach to determining volatile matter retained in the coated web?

The EPA reviewed the public comments and are finalizing the proposed method of determining the volatile organic material retained in the coated web with two changes as a result of public comment. The EPA is clarifying that "retained in the web" means "retained in the coated web or otherwise not emitted" in the regulatory text and is allowing for additional test methods for use in the development of the emission factor. Both of these changes provide regulatory clarity and flexibility, but still appropriately characterize emissions from the web coating process. The amendments add compliance flexibility and reduce regulatory burden but do not alter the emission standard. This approach quantifies emissions in a way that is representative of the actual emissions from the coating operations instead of assuming that all coating-HAP is emitted.

E. Periodic Performance Testing

1. What did we propose?

The EPA proposed that facilities that use non-recovery control devices (*e.g.,* thermal and catalytic oxidizers) must conduct periodic air emissions performance testing, with the first of the periodic performance tests to be conducted within 3 years of the effective date of the revised standards and thereafter every 5 years following the previous test. The EPA also proposed that facilities using the emission factor approach to account for volatile matter retained in the web must conduct periodic performance testing every 5 years to re-establish the emission factor.

2. What changed since proposal?

The periodic performance testing requirements for catalytic oxidizers and those for emission factor development have changed since the September 2019 proposal in response to public comment. For catalytic oxidizers, commenters suggested that annual catalyst activity testing would be more indicative of oxidizer operation than 5-year inlet/outlet emissions testing. The EPA is therefore finalizing that catalytic oxidizers may do an annual catalyst activity test instead of the 5-year inlet/outlet emissions testing. The EPA is finalizing periodic performance testing requirements for thermal oxidizers as proposed (84 FR 49403, September 19, 2019). The EPA has clarified that the testing is only required for add-on control devices used to demonstrate

compliance with the POWC NESHAP. The EPA is not finalizing the 5-year requirement to re-establish emission factors used in determining the amount of volatile organics retained in the coated web for 40 CFR 63.3360(g), but is finalizing a requirement that periodic performance testing be done if there is a change in coating formulation, operation conditions, or other change that could reasonably result in increased emissions since the time of the last test used to establish the emission factor.

3. What are the key comments and what are our responses?

Comments were received both opposing and supporting the proposed 5-year periodic emissions testing requirements. Commenters that opposed the requirements noted that oxidizers are not used continuously in the flexible packaging industry but only when compliant coatings are not used and stated that testing does not show any evidence of degradation in thermal oxidizers. Commenters noted that degradation may occur when a catalytic oxidizer is used to control a process using silicon-containing coatings, but that a catalyst activity test would be more appropriate to determine performance. The EPA has reviewed these comments and is finalizing repeat emissions performance testing for catalytic oxidizers with the alternative to perform an annual catalyst activity test. The EPA is finalizing the periodic emissions performance test requirements for thermal oxidizers, as proposed. Both requirements can be found in 40 CFR 63.3360(a)(2).

Commenters suggested that periodic performance testing for re-establishment of emission factors, such as for reactive coatings, is not necessary in most cases and would be excessively burdensome and unnecessary, except if the product's formulation or its process conditions have changed in a way that would increase emissions. The EPA has reviewed the commenters concerns and agrees that repeat testing to re-establish emission factors for coatings used in the POWC industry every 5 years could be burdensome and is not finalizing this requirement in this action.

Commenters requested clarification that the first periodic emissions performance test can be conducted within either 3 years of promulgation of the final amendments or within 60 months of the previous test, whichever is later, to ensure that any facility that has recently conducted a performance test will have the full 5 years between tests. The EPA intended that performance tests recently performed (within 3 years of promulgation of the final amendments) can count towards the first periodic testing requirements. Commenters also requested clarification if state-required volatile organic compound (VOC) performance testing or HAP performance testing performed for another MACT can count towards this requirement. The EPA agrees that both testing for VOC destruction efficiency and HAP destruction efficiency for another subpart are appropriate substitutions for the periodic testing requirements in the POWC NESHAP because these tests will demonstrate ongoing performance of the control device. Both of these issues have been clarified in 40 CFR 63.3330(a)(2).

Commenters requested clarification that only control devices used to demonstrate compliance with the POWC NESHAP would need to be tested, and that VOC tests required by the state permitting authority could be used to meet the proposed requirements. The EPA agrees with the commenters that add-on control devices not used to demonstrate compliance with the POWC NESHAP (*i.e.,* those used to demonstrate compliance with new source performance standards (NSPS) or state VOC requirements) are not required to be tested under the POWC NESHAP amendments. The EPA also agrees that VOC tests required by the state permitting authority could be used to meet the POWC repeat testing requirements. The EPA's proposal was not intended to impose duplicative testing requirements. Regulatory text has been amended throughout the NESHAP to state that the requirements for add-on control devices are only for those used to demonstrate compliance with 40 CFR 63.3320, and that VOC tests required by state permitting authorities can be used to meet the repeat performance testing requirements.

For detailed comment summaries regarding the repeat testing provisions and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the periodic emissions testing requirement?

Although ongoing monitoring of operating parameters is required by the existing POWC NESHAP, as the control device ages over time, the destruction efficiency of the control device can be compromised due to various factors. These factors are discussed in more detail in the memorandum titled *Revised Periodic Testing of Control Devices Used to Comply with the Paper and Other Web Coating NESHAP,* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2018–0416). After considering the comments discussed above and based on the need for vigilance in maintaining the control device equipment, the EPA is finalizing the requirement for periodic testing of thermal oxidizers once every 5 years and the alternative of annual catalyst activity tests for catalytic oxidizers.

F. Electronic Reporting

1. What did we propose?

The EPA proposed amendments to the POWC NESHAP to require owners and operators of POWC facilities to submit electronic copies of required performance test reports (40 CFR 63.3400(f)), performance evaluation reports (40 CFR 63.3400(g)), initial notifications (40 CFR 63.3400(b)), notification of compliance status (40 CFR 63.3400(e)), and semiannual compliance reports (40 CFR 63.3400(c)) through the EPA's Central Data Exchange (CDX) using CEDRI. A description of the electronic data submission process is provided in the proposal (at 84 FR 49403, September 19, 2019) and in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* Docket ID Item No. EPA–HQ–OAR–2018–0416–0091. The proposed amendment replaces the previous rule requirement to submit the notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. This rule requirement does not affect submittals required by state air agencies as required by 40 CFR 63.13.

For the performance test reports required in 40 CFR 63.3400(f), the amendments proposed required that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [4] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems (CMS)

[4] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For the proposed electronic submittal of initial notifications required in 40 CFR 63.3400(b), no specific form is available at this time, therefore, these notifications are required to be submitted in PDF using the attachment module of the ERT. For electronic submittal of notifications of compliance status reports required in 40 CFR 63.3400(e), it was proposed that the final semiannual report template discussed above, would also contain the information required for the notification of compliance status report.

For semiannual compliance reports required in 40 CFR 63.3400(c), the amendment proposed required that owners and operators use the final semiannual report template to submit information to CEDRI. The template will reside in CEDRI and was proposed to be used on and after 180 days past finalization of the amendments. The proposed template for these reports was included in the docket for public comment.[5]

Additionally, in the proposal, the EPA identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA provided these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control.

2. What changed since proposal?

The EPA has changed the deadline to use the CEDRI semiannual reporting template to be 1 year after the template has been available in CEDRI, instead of the proposed 180 days after date of publication of the final rule. The EPA has also changed the electronic submittal of the notification of compliance status to be a PDF instead in the semiannual reporting template. No other changes have been made to the proposed requirement for owners and operators of POWC facilities to submit initial notifications, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI.

3. What are the key comments and what are our responses?

The EPA received one comment supporting the proposed amendment to require electronic reporting. The commenter, however, believed that the proposed *force majeure* language in 40 CFR 63.3400(j) should be removed so there is no exemption from reporting due to *force majeure* events. As explained in detail in the response-to-comments document, 40 CFR 63.3400(j) does not provide an exemption to reporting, only a method for requesting an extension of the reporting deadline. The EPA has retained the proposed language in 40 CFR 63.3400(j) for the final rule.

Commenters expressed concern about potential inconsistencies between the POWC electronic reporting requirements and state requirements of paper copies of reports for VOC and title V compliance. Commenters asked for clarification that the electronic reporting requirements replace the POWC title V compliance reporting, including timing. The Agency does not agree with the commenter's suggestion concerning potential inconsistencies between state requirements for paper reporting and federal requirements for VOC and title V permit compliance. State requirements developed under the state's own authorities are separate and apart from federal requirements developed for this rule. As individual federal rules establish applicable requirements—including electronic reporting—title V programs bundle those individual requirements, except for adding appropriate periodic monitoring when necessary, without change. Therefore, title V and the individual rule's electronic reporting requirements are the same.

Commenters also asked for clarification that the transition to the new reporting methodology would apply to an entire reporting period instead of becoming effective in the middle of a reporting period, resulting in two different reports being prepared. The EPA's intent was not to require two different reports to be prepared for one reporting period. The EPA has clarified in this action that the reporting template should be used at the beginning of the first full reporting period after the template has been available in CEDRI for 1 year.

Commenters expressed concern regarding the electronic reporting template and asked for more time to meet with the EPA to develop and understand the spreadsheet. Commenters also provided feedback on the spreadsheet. The EPA agrees that more time is needed to develop the template and to work with stakeholders to understand how to use the spreadsheet. As such, the EPA is changing the compliance date for using the spreadsheet template to be 1 year after the final template is available in CEDRI. The EPA will work with stakeholders to develop the spreadsheet and to provide training on CEDRI and how to complete the spreadsheet. Because the EPA intends to work with stakeholders to update the template in the future, it has not placed an updated version of the template in the docket for this rulemaking.

For detailed comment summaries regarding electronic reporting and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the electronic reporting requirement?

The EPA is finalizing, as proposed, the requirement that owners or operators of POWC facilities submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual compliance reports using CEDRI. The EPA is finalizing that the deadline to use the CEDRI semiannual reporting template is 1 year after the template has been available in CEDRI. The EPA is finalizing that the electronic submittal of the notice of compliance status should be in pdf form instead of the semiannual reporting template. The EPA is also finalizing, as proposed, provisions that allow facility owners or operators a process to request extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event). The amendments will increase the usefulness of the data contained in those reports; is in keeping with current trends in data availability and transparency; will further assist in the protection of public health and the environment; will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and

[5] See *POWC_Electronic_Reporting_Template.xlsx,* available at Docket ID Item No. EPA–HQ–2018–0416–0165.

the EPA to assess and determine compliance; and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* Docket ID Item No. EPA–HQ–OAR–2018–0416–0165.

G. Temperature Sensor Validation

1. What did we propose?

As discussed in the preamble to the proposed rule (84 FR 49382, September 19, 2019), at 40 CFR 63.3350(e)(9), the original POWC NESHAP required facilities to conduct an electronic calibration of the temperature monitoring device every 3 months or, if calibration could not be performed, replace the temperature sensor. Facilities subject to the standard have explained to the EPA that they are not aware of a temperature sensor manufacturer that provides procedures or protocols for conducting electronic calibration of temperature sensors. Facilities have reported that because they cannot calibrate their temperature sensors, the alternative is to replace them every 3 months. Industry representatives explained that this is burdensome and requested that an alternative approach to the current requirement in 40 CFR 63.3350(e)(9) be considered.

The EPA proposed to modify 40 CFR 63.3350(e) to allow multiple alternative approaches to temperature sensor validation. The first alternative allows the use of a National Institute of Standards and Technology (NIST) traceable temperature measurement device or simulator to confirm the accuracy of any temperature sensor placed into use for at least one quarterly period, where the accuracy of the temperature measurement must be within 2.5 percent of the temperature measured by the NIST traceable device or 5 degrees Fahrenheit, whichever is greater. The second alternative allows the temperature sensor manufacturer to certify the electrical properties of the temperature sensor. The third alternative codifies the common practice of replacing temperature sensors quarterly. The fourth alternative allows for the permanent installation of a redundant temperature sensor as close as practicable to the process temperature sensor. The redundant sensors must read within 25 degrees Fahrenheit of each other for thermal and catalytic oxidizers.

2. What changed since proposal?

Comments were received on the temperature sensor validation amendments requesting clarification on the requirements. The EPA has clarified the requirements, as discussed below, in the final rulemaking.

3. What are the key comments and what are our responses?

Commenters identified inconsistencies between 40 CFR 63.8 and the POWC NESHAP. Specifically, the commenters noted that the proposed amendments require "validation" whereas 40 CFR 63.8 requires "calibration." The EPA proposed to remove the term "calibration" from the POWC NESHAP because temperature sensors such as thermocouples do not typically have calibration procedures. To fix this inconsistency, the EPA is finalizing changes to Table 2 for the 40 CFR 63.8(c)(3) entry to direct affected sources to 40 CFR 63.3350(e)(10)(iv) for temperature sensor validation procedures in lieu of calibration requirements. Additionally, the EPA is finalizing changes to Table 2 for the 40 CFR 63.8(d)(1)–(2) entry to direct affected sources to 40 CFR 63.3350(e)(5) for continuous parameter monitoring system (CPMS) quality control procedures and to the 40 CFR 63.8(d)(3) entry to state that it does not apply, because 40 CFR 63.3350(e)(5) specifies the program of corrective action. Commenters also questioned whether Table 2 requires a notification of performance evaluation for temperature sensors under 40 CFR 63.8(e)(2). The EPA is also finalizing changes to Table 2 to clarify notifications are not required for temperature sensor validations.

Commenters provided background information on thermocouple accuracy and calibrations and requested that the EPA adopt mechanical validations as an option to verify temperature sensor operation. These mechanical validations include visually inspecting the head and wiring of the device and monitoring the function/non-function of the device. Commenters explained that this type of validation is appropriate because thermocouples typically fail instead of drifting and becoming less accurate. In response to this comment, the EPA added mechanical validations as an option for verifying temperature sensor operation in the final rule.

Similarly, commenters requested that the requirement in 40 CFR 63.3350(e)(10)(vi) for quarterly inspection of all components for integrity and all electrical connections for continuity, oxidization, and galvanic corrosion be removed. Commenters noted that this requirement is redundant because electronic monitoring systems are designed to alert facility personnel if a signal from the temperature sensor is interrupted. The commenters suggested that the EPA simplify the requirement to include only a quarterly inspection of thermocouple components for proper connection and integrity and clarify that any such inspection only applies to the temperature sensor and not the entire oxidation system. The EPA did not intend to create redundant burden with the proposed requirements. The Agency agrees with the commenter and is requiring in the final rule a quarterly inspection of the thermocouple components or to continuously operate an electronic monitoring system designed to notify personnel if the temperature sensor signal is interrupted at 40 CFR 63.3350(e)(10)(vi).

Commenters supported the proposed options for testing the accuracy of temperature sensors and requested clarification on whether the use of dual-sensor thermocouples or the use of multiple sensors in the oxidizer combustion chamber would meet the proposed requirements. The Agency has added a new subsection to clarify that these options would meet the finalized requirements. Additionally, the EPA reviewed the proposed temperature sensor validation regulatory text and determined that, as proposed, it was vague and sometimes inconsistent. For example, the proposed amendments said to validate the temperature sensor quarterly by following the applicable procedures in the manufacturer's owner's manual. The EPA received additional information and found that owner's manuals specified annual inspection procedures. Also as proposed, facilities would need to quarterly validate by permanently installing a redundant temperature sensor, which was vague and confusing to affected sources. The EPA has amended 40 CFR 63.3350(e)(10)(iv) to clarify each option for verifying that a temperature sensor is operating properly and how frequently to perform the verification. The EPA is finalizing the following verification options:

- Semiannually compare the temperature sensor to a NIST traceable temperature measurement device;
- annually validate the temperature sensor by following applicable mechanical and electrical validation procedures in the manufacturer's owner's manual;
- annually request the temperature sensor manufacturer to certify or re-certify electromotive force;

• annually replace the temperature sensor with a new certified temperature sensor;

• permanently install a redundant temperature sensor as close as practicable to the process temperature sensor; or

• permanently install a temperature sensor with dual sensors to account for the possibility of failure.

One commenter requested that the required accuracy of 2.5 percent at 40 CFR part 63.3350(e)(10)(iv)(A) apply equally at 40 CFR part 63.3350(e)(10)(iv)(E) instead of 25 degrees Fahrenheit. The commenter was not aware of any reason to specify different levels of accuracy between the proposed validation methods. With this final action, the EPA has changed the 25 degrees Fahrenheit requirement in 40 CFR 63.3350(e)(10)(iv)(E) to be 2.5 percent to be consistent with the requirements of 40 CFR 63.3350(e)(10)(iv)(A).

Commenters also requested that the requirement to calibrate the chart recorder or data logger in section 40 CFR 63.3350(e)(10)(i) be removed because it is not feasible to calibrate either device, and most facilities now use an electronic signal to record temperature data for compliance purposes, not a chart recorder. The EPA agrees and has removed this statement from the regulatory text.

For detailed comment summaries regarding the temperature sensor validation requirements and corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the temperature senor calibration requirement?

The EPA proposed modifications to 40 CFR 63.3350(e) to allow multiple alternative approaches to temperature sensor calibration to address concerns raised by affected facilities prior to proposal. After reviewing the public comments received, the Agency is clarifying the requirements in this final rulemaking, as discussed above. These amendments ensure that the temperature sensors are operating properly to demonstrate continuous compliance with the emission standards.

H. Operating Parameter Clarification

1. What did we propose?

The EPA proposed to clarify language in 40 CFR 63.3370 which previously implied all deviations in operating parameters result in non-compliance with the standard. Specifically, the EPA proposed at 40 CFR 63.3370(k)(5) to clarify that each 3-hour average operating parameter that is outside of the operating limit range established during a performance test should be assumed to have zero control and all HAP must be assumed to be emitted for that period in the monthly compliance calculation.

2. What changed since proposal?

The EPA is finalizing the clarification that a deviation from a 3-hour average operating parameter is not a deviation of the standard, unless the emission limitations for the month in which the deviation occurred are exceeded. Based on public comment, the EPA has also added the option in 40 CFR 63.3370(k)(5) for a facility to develop a control destruction efficiency curve for use in determining compliance instead of assuming zero control for all deviations. The EPA has also added minor clarifications as discussed below.

3. What are the key comments and what are our responses?

Commenters supported the EPA's proposed clarification that deviations in operating parameters are not automatically indicative of non-compliance with the POWC standard. Commenters also stated that a deviation from a 3-hour operating limit does not indicate non-compliance because the standard is based on a monthly average. The EPA agrees that the intent of the clarification was for operating parameters of add-on control devices only, as the requirement was placed in 40 CFR 63.3370(k)(5) which only applies to add-on control devices and not coating lines using compliant coatings.

Several commenters disagreed with the EPA's proposal that each 3-hour average operating parameter that is outside of the operating limit range established during a performance test should be assumed to have "zero control." Commenters asserted that there was no scientific basis for this assumption and indicated that if a performance test performed well above the minimum required destruction efficiency, dropping below the established temperature may have no effect on the destruction efficiency. Commenters recommended that the EPA allow facilities to develop a control curve based on test data or engineering data that documents the level of control achieved at temperatures lower than the performance test established temperature. The EPA has considered the commenters' suggestion and have added the option to develop a control curve for add-on control devices at 40 CFR 63.3360(e)(4). Facilities must work with their permitting authority to develop the control curve.

For detailed comment summaries regarding the operating parameter clarification and responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

4. What is the rationale for our final approach and final decisions for the operating parameter clarification?

Operating parameters were established in the original POWC NESHAP to aid in determining compliance, but operating parameters were not intended to constitute a violation of the emission standard. For example, one 3-hour average regenerative thermal oxidizer firebox temperature below the setpoint established during the stack test would not necessarily indicate a violation of the POWC emission standard for the month, but it is a deviation of the operating parameter limit. The EPA is finalizing, as proposed, language to clarify this distinction with minor changes based on public comment.

I. IBR Under 1 CFR Part 51 for the POWC NESHAP

1. What did we propose?

In accordance with requirements of 1 CFR 51.5, the EPA proposed to incorporate by reference the following voluntary consensus standards (VCS) into 40 CFR 63.14:

• ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.3360(c).

• ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for 40 CFR 63.3360(c).

• ASTM 3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, IBR approved for 40 CFR 63.3360(d).

• ASTM D6093–97, (Reapproved 2016), Standard Test Method for Percent

Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for 40 CFR 63.3360(c).

- ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures, IBR approved for 40 CFR 63.3360(c).
- ASTM D1963–85 (Reapproved 1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C (Withdrawn 2004), IBR approved for 40 CFR 63.3360(c).

2. What changed since proposal?

No changes to the proposed IBR were made since publication of the proposal (84 FR 49405, September 19, 2019).

3. What are the key comments and what are our responses?

No comments were received on the proposed IBR of the standards into 40 CFR 63.14.

4. What is the rationale for our final approach and final decisions for the IBR under 1 CFR part 51?

In accordance with requirements of 1 CFR 51.5, the EPA is finalizing, as proposed, the IBR of the documents listed in section IV.I.1 of this preamble.

J. Technical and Editorial Changes

1. Removal of OSHA-Defined Carcinogens Reference

a. What did we propose?

The EPA proposed to amend sections 40 CFR 63.3360(c)(1)(i) and (3), which describe how to demonstrate initial compliance with the emission limitations using the compliant material option, to remove references to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The reference to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) is intended to specify which compounds must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The Agency proposed to remove this reference because 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. The EPA proposed to replace the references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 3 to Subpart JJJJ of Part 63—List of Hazardous Air Pollutants That Must Be Counted Relative to Determining Coating HAP Content if Present at 0.1 Percent or More By Mass) of those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass.

b. What changed since proposal?

The EPA has changed the approach for the removal of the reference to 29 CFR 1910.1200(d)(4) based on public comment. The EPA is not finalizing the proposed Table 3 to 40 CFR part 63, subpart JJJJ, and is finalizing a reference to appendix A to 29 CFR 1910.1200 where 29 CFR 1910.1200(d)(4) was previously referenced.

c. What are the key comments and what are our responses?

Multiple commenters asked that the EPA delete the proposed Table 3 to 40 CFR part 63, subpart JJJJ, and modify the proposed methodology for determining the HAP content of coatings. Commenters pointed out that 29 CFR 1910.1200(d)(4) was not a list, but a list of references for manufacturers and importers to use to classify chemicals. Commenters asked that the POWC NESHAP reference the current OSHA Safety Data Sheets (SDS) rule (29 CFR 1910.1200) instead of adding a static list in the form of the proposed Table 3 to 40 CFR part 63, subpart JJJJ. The EPA agrees the commenters' suggestion is a more-streamlined solution for updating the OSHA reference and is not finalizing the table in the final rule and has added the reference to appendix A to 29 CFR 1910.1200.

For detailed comment summaries regarding the OSHA-defined carcinogens reference and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA has reviewed the comments received regarding the removal of the OSHA-defined carcinogens language and agrees that appendix A to 29 CFR 1910.1200 is an appropriate replacement for the outdated 29 CFR 1910.1200(d)(4) reference. Given that the OSHA language that the POWC proposal sought to replace is in appendix A, for the final POWC amendment the EPA is finalizing the regulatory text at 40 CFR 63.3360(c)(1)(i) to be as follows:

(i) Include each organic HAP determined to be present at greater than or equal to 0.1 mass percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and greater than or equal to 1.0 mass percent for other organic HAP compounds.

2. Clarification of Compliance Demonstration Options

a. What did we propose?

The EPA proposed an introductory paragraph and a new subsection to clarify the compliance demonstration requirements in 40 CFR 63.3370. As originally promulgated, it was not clear that compliance can be demonstrated based on individual web coating lines, groups of web coating lines, or all of the web coating lines located at an affected facility. An introductory paragraph to 40 CFR 63.3370 was proposed to clarify the intent that compliance can be demonstrated across the web coating lines in a facility by grouping them or treating them individually or a combination of both. Additionally, a new subsection 40 CFR 63.3370(r) was proposed to clarify that compliance with the subpart can be demonstrated using a mass-balance approach. While the compliance calculations included in 40 CFR 63.3370(b)–(p) are thorough, there are instances where variables in the equations are not needed, resulting in confusion by the regulated facilities and the regulating agencies as to what is required to demonstrate compliance. The mass-balance approach proposed in 40 CFR 63.3370(r) clarifies the original intent of the rule.

b. What changed since proposal?

The EPA received comments suggesting minor edits to the proposed language regarding the mass-balance compliance demonstration approach and has incorporated these edits, as appropriate, as discussed below. No changes were made to the introductory paragraph to 40 CFR 63.3370 and the EPA is finalizing this section, as proposed, in this action.

c. What are the key comments and what are our responses?

Commenters expressed support for the proposed clarification that compliance can be demonstrated across multiple lines. Commenters also felt that this clarification reduces the potential for inconsistent regulatory interpretations by sources and permitting agencies and makes the POWC NESHAP consistent with other coating rules. The EPA acknowledges the commenters' support and is finalizing the clarification, as proposed.

Commenters noted that the EPA incorrectly stated procedures for demonstrating compliance by mass-balance at 40 CFR 63.3370(r)(1)—the mass of HAP emitted during the month should be divided by the mass applied according to any of the procedures listed in 40 CFR 63.3320(b)(1)–(3). Commenters also suggested additional regulatory text revisions to be consistent with proposed edits to other sections. The EPA has reviewed these comments and agrees with the commenters suggested edits to correct the mass-balance calculation and has done so in this rulemaking.

For detailed comment summaries regarding the clarification of the compliance demonstration options and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed, and is finalizing, amendments to the regulatory text to clarify that compliance can be demonstrated based on individual web coating lines, groups of web coating lines, or all of the web coating lines located at an affected facility. The EPA is finalizing corrections to the mass balance calculation. Additionally, the EPA proposed, and is finalizing, a new subsection in 40 CFR 63.3370(r) to clarify the intent of the rule as a mass-balance approach of demonstrating compliance. The clarification to the compliance demonstration options were made to help reduce confusion among regulated entities and regulating authorities.

3. Clarification of Coating Materials Definition

a. What did we propose?

The EPA proposed to revise the coating material definition in 40 CFR 63.3310 to clarify that coating materials are liquid or semi-liquid materials. Additionally, the EPA proposed to revise the web coating line definition to clarify that coating materials are liquid or semi-liquid.

b. What changed since proposal?

The EPA has clarified in the definition of coating materials to include hot melt adhesives and other hot melt materials.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposed clarifications to the definition of coating materials and further suggested that the EPA revise the definition to ensure that it is not incorrectly interpreted to exclude hot melt adhesives or coatings. The EPA agrees with the commenters and hot melt materials are included in the revised regulatory text in 40 CFR 63.3310 to reflect this.

For detailed comment summaries regarding the coating materials definition and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA is finalizing, as proposed, revisions to the coating material definition in 40 CFR 63.3310 to clarify that coating materials are liquid or semi-liquid materials and revisions to the web coating line definition to clarify that coating materials are liquid or semi-liquid. The EPA is also finalizing the clarification that hot melt materials are included in the definition and that vapor deposition and dry abrasive materials deposited onto a coated surface area are excluded from the definition. These revisions will improve regulatory clarity by confirming that the weight of solid materials should not be accounted for in the compliance demonstration calculations, and that vapor-deposition coating is not covered by this subpart.

4. Addition of Web Coating Line Usage Threshold

a. What did we propose?

The EPA proposed to add a usage threshold to 40 CFR 63.3300(h), similar to that in 40 CFR part 63, subpart OOOO, that requires a web coating line that coats both paper and another substrate, such as fabric, to comply with the subpart that corresponds to the predominate activity conducted. The EPA proposed to define predominant activity to be 90 percent of the mass of substrate coated during the compliance period. For example, a web coating line that coats 90 percent or more of a paper substrate, and 10 percent or less of a fabric substrate, would be subject to this subpart and not 40 CFR part 63, subpart OOOO.

b. What changed since proposal?

Since proposal, the EPA has clarified that the predominant activity should be determined on a calendar year basis.

c. What are the key comments and what are our responses?

Commenters supported usage thresholds for converting lines that coat both paper and another substrate. Commenters noted that the usage of the term "affected source" in the proposal appears to be inconsistent with the example because the POWC NESHAP is the collection of all web coating lines. Additionally, commenters thought the term compliance period could be interpreted to require a facility performing different types of coating to determine which NESHAP applies on a monthly basis. Commenters requested that the EPA clarify these issues. The EPA agrees with the commenters and have edited the regulatory text to clarify that predominant activity must be determined on a calendar year basis.

For detailed comment summaries regarding the web coating line threshold and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA reviewed the public comments and added clarifying language to the proposed usage threshold. This language was added to promote regulatory certainty and reduce burden from sources that could be subject to multiple NESHAP.

5. Addition of Printing Activity Exemption

a. What did we propose?

The EPA proposed to add a printing activity exemption to 40 CFR 63.3300(i) which allows for modified web coating lines already subject to this subpart to continue to demonstrate compliance with this subpart, in lieu of demonstrating compliance with 40 CFR part 63, subpart KK (Printing and Publishing NESHAP).

b. What changed since proposal?

The EPA has clarified the language in the printing activity exemption to allow for existing and modified lines to be

subject to the POWC NESHAP in lieu of 40 CFR part 63, subpart KK.

c. What are the key comments and what are our responses?

Multiple commenters supported the EPA's proposed printing activity exemption to allow for modified POWC lines already subject to the POWC NESHAP to continue to demonstrate compliance with 40 CFR part 63, subpart JJJJ in lieu of demonstrating compliance with 40 CFR part 63, subpart KK. Commenters suggested that this exemption also apply to existing sources as well as modified sources (*e.g.,* for POWC web coating lines that already have a product and packaging rotogravure print station and/or a wide-web flexographic print station). The commenter noted that, as written, if during a single month the line exceeds 5 percent of the total mass of materials applied at the print station, the line applicability would permanently change to the Printing and Publishing NESHAP. The EPA agrees with the commenters and has clarified the regulatory text in this action, as appropriate.

For detailed comment summaries regarding the printing activity exemption and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

In this rulemaking, the EPA is finalizing a printing activity exemption to 40 CFR 63.3300(i) which allows for modified and existing web coating lines already subject to this subpart to continue to demonstrate compliance with this subpart, in lieu of demonstrating compliance with 40 CFR part 63, subpart KK (*i.e.,* the Printing and Publishing NESHAP). This exemption will reduce regulatory burden without resulting in increased emissions.

6. Clarification of Testing Requirements

a. What did we propose?

The EPA proposed to remove the "by compound" statement in 40 CFR 63.3320(b)(4) to clarify that the standard is 20 parts per million by volume (ppmv) for the total of organic HAP emitted, not 20 ppmv for each individual HAP emitted. This is consistent with the test methods used in this subpart, which test for total HAP concentration.

b. What changed since proposal?

The EPA is finalizing the removal of "by compound" in 40 CFR 63.3220(b)(4) to clarify that the 20 ppmv standard applies to the total of organic HAP emitted, not to each individual HAP. As part of our review, the EPA found four additional instances of "by compound" in 40 CFR 63.3370(a)(5), (f), (f)(3), and (f)(3)(iii) that also needed to be removed.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposal to remove "by compound" in 40 CFR 63.3220(b)(4) to clarify that the 20 ppmv standard applies to the total of organic HAP emitted, not to each individual HAP.

d. What is the rationale for our final approach?

The removal of "by compound" makes the POWC NESHAP consistent with the test methods referenced in the subpart, as they test for total HAP concentration, not individual HAP compounds.

7. Applicability to Sources Using Only Non-HAP Coatings

a. What did we propose?

The EPA requested comment on changing the applicability of the POWC NESHAP to exclude sources that only use non-HAP coatings but are located at a major source to reduce regulatory burden. As identified during the development of the risk modeling input file and discussed in section III.C of the preamble to the proposed rule (84 FR 49406, September 19, 2019), some facilities that utilize only non-HAP coatings are subject to the POWC NESHAP because they perform web coating operations and are a major source because of non-POWC source category emissions. For example, a non-HAP coating line used to produce paper towel cores may be located at an integrated pulp and paper facility that is a major source because of emissions from the pulping operations. This facility would be required to comply with the requirements of 40 CFR part 63, subpart JJJJ, even though the coatings used contain no HAP, and, therefore, no HAP are emitted from the web coating lines.

b. What changed since proposal?

The EPA received supportive comments regarding the change of applicability to sources using only non-HAP coatings. The Agency has reviewed the public comments and, instead of changing the applicability of the subpart, is finalizing an exemption for reporting requirements for these sources.

c. What are the key comments and what are our responses?

Commenters supported the EPA's proposal to reduce regulatory burden by excluding sources that are located at a major source of HAP but do not use coatings that contain HAP for the POWC emission sources. Commenters stated that the change will reduce regulatory burden without increasing emissions and could incentivize sources to convert to non-HAP coatings to avoid applicability of the POWC NESHAP, resulting in emissions reductions. Commenters further suggested that the exclusion is a logical step under the EPA's efforts to reduce regulatory burden and is similar in key aspects to the rulemaking to rescind the EPA's "once in, always in" policy. Commenters suggested that the EPA clarify that all of the subject coating lines at the facility must use non-HAP coatings to qualify for the exclusion. The EPA has reviewed these comments and has added regulatory text exempting sources that only use non-HAP coatings on all of the subject web coating lines at the facility from on-going compliance reporting requirements.

For detailed comment summaries regarding applicability to sources only using non-HAP coatings and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA requested comment on changing the applicability of sources using only non-HAP coatings and received comments supporting the change. The EPA is finalizing an exemption to on-going reporting requirements for these sources as it will reduce regulatory burden without increasing emissions.

8. Oxidizer Temperature Monitoring

a. What did we propose?

The EPA proposed to add language to recognize that thermal oxidizers can demonstrate compliance with the standard as long as the 3-hour average firebox temperature does not drop lower

than 50 degrees Fahrenheit below the average combustion temperature established during the performance test to promote consistency between the Pressure Sensitive Tape and Label Surface Coating Operations NSPS (40 CFR part 60, subpart RR) and the POWC NESHAP, as well as to account for temperature swings due to startup and/or shutdown of web coating lines.

b. What changed since proposal?

The EPA has made minor clarifications to the regulatory text to promote consistency throughout the subpart and has added similar language for catalytic oxidizers.

c. What are the key comments and what are our responses?

Commenters were supportive of the EPA's proposed language for thermal oxidizers and requested that it be included for catalytic oxidizers as well. Additionally, commenters noted that the Pressure Sensitive Tape and Label Surface Coating Operations NSPS allows for setting the minimum temperature drop across the catalyst bed at 80 percent of the average temperature difference during the most recent performance test and requested that this language be added to promote consistency between the two rules. The Agency has reviewed the commenters suggestions and agree that it is appropriate to add the temperature language for catalytic oxidizers. To ensure complete combustion, the EPA also added a requirement that the catalyst's minimum temperature must always be 50 degrees Fahrenheit above the catalyst's ignition temperature.

Commenters also suggested edits to promote consistency throughout the subpart as it relates to the temperature language. The EPA has reviewed these suggestions and made edits to the regulatory text in this action, as appropriate.

For detailed comment summaries regarding the oxidizer temperature monitoring requirements and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed to add language to recognize that thermal oxidizers can demonstrate compliance with the standard as long as the 3-hour average firebox temperature does not drop lower than 50 degrees Fahrenheit below the average combustion temperature established during the performance test to promote consistency between the Pressure Sensitive Tape and Label Surface Coating Operations NSPS and the POWC NESHAP, as well as to account for temperature swings due to startup and/or shutdown of web coating lines. After reviewing the public comments, the EPA has added the same requirements to catalytic oxidizers. In addition, the EPA has added language similar to that in the Pressure Sensitive Tape and Label Surface Coating Operations NSPS to allow for setting the minimum temperature drop across the catalyst bed at 80 percent of the average temperature difference during the most recent performance test. To ensure complete combustion, the EPA also added a requirement that the catalyst's minimum temperature must always be 50 degrees Fahrenheit above the catalyst's ignition temperature.

9. Compliance Report Content

a. What did we propose?

The EPA proposed new reporting requirements at 40 CFR 63.3400(c)(2) that would require facilities to record data for failures to meet an applicable standard, estimate the quantity of each regulated pollutant over any emission limit and a description of the method used, and document any actions taken to minimize emissions.

b. What changed since proposal?

The EPA has revised the compliance report content requirements in 40 CFR 63.3400(c)(2) to clarify what should be reported.

c. What are the key comments and what are our responses?

Commenters noted that the new reporting requirements should be eliminated because they go beyond the General Provisions at 40 CFR 63.10 and, because compliance is determined monthly, short deviations are not likely to cause excess emissions. Commenters further noted that the proposed additions are not relevant to a rule where compliance is not demonstrated on a short-term basis. The EPA has reviewed the commenters concerns and agree that the language is not appropriate for 40 CFR part 63, subpart JJJJ. The EPA has revised the requirements in 40 CFR 63.3400(c)(2) to clarify what is required to be reported and has also revised the requirements in 40 CFR 63.3410(c) to clarify what records should be maintained.

Additionally, while the EPA was reviewing the report content requirements, it became clear that the requirements were confusing as to what should be reported for facilities using compliant coatings versus facilities using add-on controls. The EPA has clarified that 40 CFR 63.3400(c)(2)(v) applies to facilities using only compliant coatings (*i.e.,* those that do not use a CMS). The EPA also clarified that 40 CFR 63.3400(c)(2)(vi) applies to facilities that have add-on control devices (*i.e.,* those that use a CPMS or a continuous emission monitoring system). These amendments should improve regulatory clarity.

For detailed comment summaries regarding compliance report content and the corresponding responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 19, 2019 Proposal.*

d. What is the rationale for our final approach?

The EPA proposed new reporting requirements at 40 CFR 63.3400(c)(2) that would require facilities to record data for failures to meet an applicable standard, estimate the quantity of each regulated pollutant over any emission limit and a description of the method used, and document any actions taken to minimize emissions to be consistent with recent RTR rulemakings. After reviewing the comments received during the public comment period, as well as the regulatory language, it was determined that these requirements were not appropriate for 40 CFR part 63, subpart JJJJ because compliance is demonstrated on a monthly basis and therefore these requirements are not being finalized. In response to comments, amendments were added to the compliance report contents section to clarify what should be reported and by whom.

10. Other Amendments

The following additional changes were proposed that address technical and editorial corrections:

- Revised the references to the other NESHAP in 40 CFR 63.3300 to clarify the appropriate subparts;
- revised 40 CFR 3350(c) to clarify that bypass valves on always-controlled work stations should be monitored;
- revised 40 CFR 63.3350(e)(4) to clarify 3-hour averages should be block averages, consistent with the requirements in Table 1 to Subpart JJJJ of Part 63;

• revised the monitoring requirements section in 40 CFR 63.3360 to clarify what constitutes representative conditions;

• revised the recordkeeping requirements section in 40 CFR 63.3410 to include the requirement to show continuous compliance after effective date of regulation;

• revised the terminology in the delegation of authority section in 40 CFR 63.3420 to match the definitions in 40 CFR 63.90;

• revised the General Provisions applicability table (Table 2 to Subpart JJJJ of Part 63) to provide more detail and to make it align with those sections of the General Provisions that have been amended or reserved over time; and

• renumbered the equations throughout the subpart for regulatory clarity.

No comments were received on these other amendments and, therefore, the EPA is finalizing them as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

The POWC source category includes any facility that is located at a major source and is engaged in the coating of paper, plastic film, metallic foil, and other web surfaces. All the coating lines at a subject facility are defined as one affected source. Any new source means any affected source for which construction or reconstruction was commenced after the date the EPA first proposed regulations establishing a NESHAP applicable to the source (*i.e.,* for the POWC source category, September 13, 2000). An existing source means any source other than a new source. Generally, an additional line at an existing facility is considered part of the existing affected source. New affected sources are new lines installed at new facilities or at a facility with no prior POWC operations.

There are currently 168 facilities in the United States that are subject to the POWC NESHAP. The EPA is aware of one new affected source that is under construction that will be subject to the POWC NESHAP in the future. The EPA is not aware of any other facilities that are under construction or are planned to be constructed which would be considered ''new facilities'' under the POWC NESHAP.

B. What are the air quality impacts?

At the current level of control, estimated emissions of total HAP are approximately 3,870 tpy. Compared to pre-MACT levels, this represents a significant reduction of HAP for the category. When the POWC NESHAP was finalized in 2002, the EPA estimated the annual baseline HAP emissions from the source category to be approximately 42,000 tpy (67 FR 72331, December 4, 2002).

The amendments will require all 168 major sources with equipment subject to the POWC NESHAP to operate without the SSM exemption. Eliminating the SSM exemption will reduce emissions by requiring facilities to meet the applicable standard during SSM periods; however, the EPA is unable to quantify the specific emission reductions associated with eliminating the exemption. The requirement for repeat performance testing once every 5 years for thermal oxidizers and the alternative of annual catalyst activity testing for catalytic oxidizers will ensure that the control device is operating correctly and may reduce emissions, but no method for accurately estimating such emissions reduction is available.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment that would be required under this final rule. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

For further information, see the memorandum titled *Revised Cost, Environmental, and Energy Impacts of Regulatory Options for the Paper and Other Web Coatings Risk and Technology Review,* in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

C. What are the cost impacts?

Startup and shutdown are considered normal operations for most facilities subject to the POWC NESHAP. The EPA does not believe removing the SSM exemption will result in additional incurred costs.

As discussed in detail in the memorandum titled *Revised Cost, Environmental, and Energy Impacts of Regulatory Options for the Paper and Other Web Coatings Risk and Technology Review,* it is estimated that 65 oxidizers will have to perform repeat performance testing. Fifty eight of these 65 are thermal oxidizers, and 3 are catalytic oxidizers. For costing purposes, it was assumed that repeat emissions performance testing will be performed every 5 years on the thermal oxidizers, and annual catalyst activity testing will be conducted on the catalytic oxidizers. The estimated cost for an inlet-outlet EPA Method 25A performance test (with electronic reporting of results) is $28,000 per test and the estimated cost for annual catalyst activity testing is $1,000, for an estimated nationwide cost of $1,750,000 (2018$) every 5 years. The electronic reporting requirement is not expected to require any additional labor hours to prepare, compared to the paper semi-annual compliance reports that are already prepared. Therefore, the costs associated with the electronic reporting requirement are zero.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of a regulatory action. To assess the potential impact, the largest cost expected to be experienced in any one year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the POWC NESHAP, the 168 affected facilities are owned by 91 different parent companies, and the total costs associated with the final requirements range from less than 0.000001 to 3 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Twenty-nine of the facilities potentially affected by the final revisions to the POWC NESHAP are small entities. However, the costs associated with the final requirements for the affected small entities range from 0.0003 to 3 percent of annual sales revenues per ultimate owner; there is one facility with costs of 1.4 percent and one facility with costs of 3 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these final amendments.

E. What are the benefits?

Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because we did not estimate emission reductions associated with the

final revisions, the EPA did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, the EPA evaluated the distribution of HAP-related cancer and noncancer risk from the POWC source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks.[6] The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Paper and Other Web Coating Facilities,* available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0416–0088). These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

The results of the POWC source category demographic analysis indicate that emissions from the source category expose approximately 4,300 people to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer TOSHI greater than 1. The specific demographic results indicate that the percentage of the population potentially impacted by emissions is greater than its corresponding national percentage for the white population (86 percent for the source category compared to 62 percent nationwide) and for the below-poverty-level population (17 percent compared to 14 percent nationwide).

The risks due to HAP emissions from this source category are low for all populations. Furthermore, the EPA does not expect this final rule to achieve significant reductions in HAP emissions. Therefore, the EPA concludes that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. However, this final rule will provide additional benefits to these demographic groups by improving the monitoring, compliance, and implementation of the NESHAP.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The results of the POWC source category demographic analysis indicate that emissions from the source category expose approximately 4,300 people to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer TOSHI greater than 1. The distribution of the population with risks above 1-in-1 million is 20 percent for ages 0 to 17, 62 percent for ages 18 to 64, and 17 percent for ages 65 and up. Children ages 0 to 17 constitute 23 percent of the population nationwide. Therefore, the analysis shows that actual emissions from 40 CFR part 63, subpart JJJJ facilities have a slightly smaller impact on children ages 0 to 17. This action's health and risk assessments are contained in sections III and IV of the preamble to the proposed rule and further documented in the risk report titled *Residual Risk Assessment for the Paper and Other Web Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1951.09, OMB Control No. 2060–0511. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The POWC NESHAP applies to existing facilities and new POWC facilities. In general, all NESHAP standards require initial notifications, notifications of compliance status, performance tests, performance evaluation reports, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart JJJJ.

Respondents/affected entities: POWC facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart JJJJ).

Estimated number of respondents: 170.

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 17,300 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,735,000 (per year), includes $765,000 annualized capital and operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to

[6] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living 2 times the poverty level, and linguistically isolated people.

respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action and the annualized costs associated with the final requirements in this action for the affected small entities are described in section V.D above.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. No tribal governments own facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Paper and Other Web Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA is finalizing the following six VCS as alternatives to EPA Method 24 and is incorporating them by reference for the first time in the finalized amendments:

- ASTM D2369–10 (Reapproved 2015)[e], "Standard Test Method for Volatile Content of Coatings." This test method describes a procedure used for the determination of the weight percent volatile content of solvent-borne and waterborne coatings.
- ASTM D2697–03 (Reapproved 2014), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings." This test method is applicable to the determination of the volume of nonvolatile matter in coatings.
- ASTM D3960–98, "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings." This test method is used for the measurement of the VOC content of solvent borne and waterborne paints and related coatings. This method is an acceptable alternative to EPA Method 24 because the regulation allows for the use of VOC content as a surrogate for HAP.
- ASTM D6093–97 (Reapproved 2016), "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer." This test method is used for the determination of the percent volume nonvolatile matter in clear and pigmented coatings.
- ASTM D2111–10 (Reapproved 2015), "Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures." This test method is used for the determination of the specific gravity of halogenated organic solvents and solvent admixtures.
- ASTM D1963–85 (Reapproved 1996), "Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25° C." This test method is used for the determination of the specific gravity of drying oils, varnishes, alkyd resins, fatty acids, and related materials. This method is an acceptable alternative to EPA Method 24 for density only and may not be valid for all coatings and is valid at the designated temperature (25 degrees Celsius). This standard was withdrawn in 2004 with no replacement; there is no later version.

These standards are reasonably available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org/.*

While the EPA has identified another 19 VCS as being potentially applicable to this NESHAP, we have decided not to use these VCS in this rulemaking. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other important technical and policy considerations. See the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating,* in the docket for this rule for the reasons for these determinations (Docket ID Item No. EPA–HQ–OAR–2018–0416–0068).

The revised regulatory text references ANSI/ASME PTC 19.10–1981 (40 CFR 63.3360) and ASTM D5087–02 (40 CFR 63.3165). These standards were previously approved for this section. That approval continues without change.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is

contained in section V.F of this preamble and the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Paper and Other Web Coating Facilities,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0416).

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set out in the preamble, 40 CFR part 63 is amended as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:

■ a. Redesignating paragraphs (h)(49) through (114) as (h)(51) through (116) and paragraphs (h)(18) through (48) as (h)(19) through (49), respectively;

■ b. Adding new paragraphs (h)(18) and (50); and

■ c. Revising newly redesignated paragraphs (h)(21), (26), (30), and (80).

The additions and revisions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(18) ASTM D1963–85 (Reapproved 1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C, approved November 29, 1985, IBR approved for § 63.3360(c).

* * * * *

(21) ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, approved June 1, 2015, IBR approved for §§ 63.3360(c), 63.3951(c), 63.4141(b) and (c), 63.4551(c), and 63.4741(a).

* * * * *

(26) ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.3151(a), 63.3360(c), 63.3961(j), 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4541(a), 63.4561(j), appendix A to subpart PPPP, 63.4741(a), 63.4941(a) and (b), and 63.4961(j).

* * * * *

(30) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§ 63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

(50) ASTM 3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, approved November 10, 1998, IBR approved for § 63.3360(c).

* * * * *

(80) ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, approved December 1, 2016, IBR approved for §§ 63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

■ 3. Section 63.3300 is amended by:

■ a. Revising the introductory text and paragraphs (a), (b), (d), (e) and (f); and

■ b. Adding paragraphs (h) through (j).

The revisions and additions read as follows:

§ 63.3300 Which of my emission sources are affected by this subpart?

The affected source subject to this subpart is the collection of all web coating lines at your facility. This includes web coating lines engaged in the coating of metal webs that are used in flexible packaging, and web coating lines engaged in the coating of fabric substrates for use in pressure sensitive tape and abrasive materials. Web coating lines specified in paragraphs (a) through (g) of this section are not part of the affected source of this subpart.

(a) Any web coating line that is stand-alone equipment under subpart KK of this part (National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Printing and Publishing Industry) which the owner or operator includes in the affected source under subpart KK.

(b) Any web coating line that is a product and packaging rotogravure or wide-web flexographic press under subpart KK of this part (NESHAP for the Printing and Publishing Industry) which is included in the affected source under subpart KK.

* * * * *

(d) Any web coating line subject to subpart EE of this part (NESHAP for Magnetic Tape Manufacturing Operations).

(e) Any web coating line subject to subpart SSSS of this part (NESHAP for Surface Coating of Metal Coil).

(f) Any web coating line subject to subpart OOOO of this part (NESHAP for the Printing, Coating, and Dyeing of Fabrics and Other Textiles). This includes any web coating line that coats both a paper or other web substrate and a fabric or other textile substrate, except for a fabric substrate used for pressure sensitive tape and abrasive materials.

* * * * *

(h) Any web coating line that coats both paper or a web, and another substrate such as fabric, may comply with the subpart of this part that applies to the predominant activity conducted on the affected source. Predominant activity for this subpart is 90 percent of the mass of substrate coated during the compliance period. For example, a web coating line that coats 90 percent or more of a paper substrate, and 10 percent or less of a fabric or other textile substrate, would be subject to this subpart and not subpart OOOO of this part. You may use data for any reasonable time period of at least one year in determining the relative amount of coating activity, as long as they are expected to represent the way the source will continue to operate in the future. You must demonstrate and document the predominant activity annually.

(i) Any web coating line subject to this part that is modified to include printing activities, may continue to demonstrate compliance with this part, in lieu of demonstrating compliance with subpart KK of this part. Any web coating line with product and packaging rotogravure print station(s) and/or a wide-web flexographic print station(s) that is subject to this subpart may elect to continue demonstrating compliance with this subpart in lieu of subpart KK of this part, if the mass of the materials applied to the line's print station(s) in

a month ever exceed 5 percent of the total mass of materials applied onto the line during the same period.

(j) If all of the subject web coating lines at your facility utilize non-HAP coatings, you can become exempt from the reporting requirements of this subpart, provided you submit a one-time report as required in § 63.3370(s) to your permitting authority documenting the use of only non-HAP coatings.

■ 4. Section 63.3310 is amended by revising the definitions of "coating material(s)" and "web coating line" to read as follows:

§ 63.3310 What definitions are used in this subpart?

* * * * *

Coating material(s) means all liquid or semi-liquid materials (including the solids fraction of those materials as applied), such as inks, varnishes, adhesives (including hot melt adhesives or other hot melt materials), primers, solvents, reducers, and other materials applied to a substrate via a web coating line. Materials used to form a substrate or applied via vapor deposition, and dry abrasive materials deposited on top of a coated web, are not considered coating materials.

* * * * *

Web coating line means any number of work stations, of which one or more applies a continuous layer of liquid or semi-liquid coating material across the entire width or any portion of the width of a web substrate, and any associated curing/drying equipment between an unwind or feed station and a rewind or cutting station.

* * * * *

■ 5. Section 63.3320 is amended by revising paragraphs (b) introductory text and (b)(4) to read as follows:

The revisions read as follows:

§ 63.3320 What emission standards must I meet?

* * * * *

(b) You must limit organic HAP emissions to the level specified in paragraph (b)(1), (2), (3), or (4) of this section for all periods of operation, including startup, shutdown, and malfunction (SSM).

* * * * *

(4) If you use an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100 percent.

* * * * *

■ 6. Section 63.3321 is amended by revising paragraph (a) to read as follows:

§ 63.3321 What operating limits must I meet?

(a) For any web coating line or group of web coating lines for which you use add-on control devices to demonstrate compliance with the emission standards in § 63.3320, unless you use a solvent recovery system and conduct a liquid-liquid material balance, you must meet the operating limits specified in Table 1 to this subpart or according to paragraph (b) of this section. These operating limits apply to emission capture systems and control devices used to demonstrate compliance with this subpart, and you must establish the operating limits during the performance test according to the requirements in § 63.3360(e)(3). You must meet the operating limits at all times after you establish them.

* * * * *

■ 7. Section 63.3330 is revised to read as follows:

§ 63.3330 When must I comply?

(a) For affected sources which commenced construction or reconstruction prior to September 19, 2019, you must comply as follows:

(1) Before July 9, 2021, the affected coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, except during periods of SSM. On and after July 9, 2021, the affected coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, including periods of SSM.

(2) A periodic emissions performance test must be performed by July 9, 2023, or within 60 months of the previous test, whichever is later, and subsequent tests no later than 60 months thereafter, as required in § 63.3360. Performance testing for HAP or VOC destruction efficiency required by state agencies can be used to meet this requirement.

(3) After July 9, 2021, you must electronically submit initial notifications, notifications of compliance status, performance evaluation reports, and performance test reports, as required in § 63.3400. Semiannual compliance reports must be submitted electronically for the first full semiannual compliance period after the template has been available in the Compliance and Emissions Data Reporting Interface (CEDRI) for 1 year.

(b) For new affected sources which commenced construction or reconstruction after September 19, 2019, you must comply as indicated in paragraphs (b)(1) through (3) of this section. Existing affected sources which have undergone reconstruction as defined in § 63.2 are subject to the requirements for new affected sources. The costs associated with the purchase and installation of air pollution control equipment are not considered in determining whether the existing affected source has been reconstructed. Additionally, the costs of retrofitting and replacing of equipment that is installed specifically to comply with this subpart are not considered reconstruction costs.

(1) The coating operation(s) must be in compliance with the applicable emission limit in § 63.3320 at all times, including periods of SSM, starting July 9, 2020, or immediately upon startup, whichever is later.

(2) You must complete any initial performance test required in § 63.3360 within the time limits specified in § 63.7(a)(2), and subsequent tests no later than 60 months thereafter.

(3) You must electronically submit initial notifications, notifications of compliance status, performance evaluation reports, and performance test reports as required in § 63.3400 starting July 9, 2020, or immediately upon startup, whichever is later. Semiannual compliance reports must be submitted electronically for the first full semiannual compliance period after the template has been available in CEDRI for 1 year.

■ 8. Section 63.3340 is revised to read as follows:

§ 63.3340 What general requirements must I meet to comply with the standards?

(a) Before July 9, 2021, for each existing source for which construction or reconstruction commenced on or before September 19, 2019, you must be in compliance with the emission limits and operating limits in this subpart at all times, except during periods of SSM. On and after July 9, 2021, for each such source you must be in compliance with the emission limits and operating limits in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after September 19, 2019, you must be in compliance with the emission limits and operating limits in this subpart at all times, starting July 9, 2020, or immediately upon startup, whichever is later.

(b) For affected sources as of September 19, 2019, before July 9, 2021, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On

and after July 9, 2021, for such sources and on July 9, 2020, or immediately upon startup, whichever is later, for new or reconstructed affected sources, you must always operate and maintain your affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) You must conduct each performance test required by § 63.3360 according to the requirements in § 63.3360(e)(2) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) Representative coating operation operating conditions. You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, and nonoperation do not constitute representative conditions. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(2) Representative emission capture system and add-on control device operating conditions. You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(d) Table 2 to this subpart specifies the provisions of subpart A of this part that apply if you are subject to subpart JJJJ.

■ 9. Section 63.3350 is amended by:
■ a. Revising paragraphs (b), (c) introductory text, (d)(1)(iii), (e) introductory text, and (e)(2) and (4);
■ b. Redesignating paragraphs (e)(5) through (10) as paragraphs (e)(6) through (11);
■ c. Adding new paragraph (e)(5); and
■ d. Revising newly redesignated paragraph (e)(10).

The revisions and addition read as follows:

§ 63.3350 If I use a control device to comply with the emission standards, what monitoring must I do?

* * * * *

(b) Following the date on which the initial or periodic performance test of a control device is completed to demonstrate continuing compliance with the standards, you must monitor and inspect each capture system and each control device used to comply with § 63.3320. You must install and operate the monitoring equipment as specified in paragraphs (c) and (f) of this section.

(c) *Bypass and coating use monitoring.* If you own or operate web coating lines with intermittently-controlled work stations, you must monitor bypasses of the control device and the mass of each coating material applied at the work station during any such bypass. If using a control device for complying with the requirements of this subpart, you must demonstrate that any coating material applied on a never-controlled work station or an intermittently-controlled work station operated in bypass mode is allowed in your compliance demonstration according to § 63.3370(o) and (p). The bypass monitoring must be conducted using at least one of the procedures in paragraphs (c)(1) through (4) of this section for each work station and associated dryer.

* * * * *

(d) * * *

(1) * * *

(iii) You must have valid data from at least 90 percent of the hours when the process is operated. Invalid or missing data should be reported as a deviation in the semiannual compliance report.

* * * * *

(e) *Continuous parameter monitoring system (CPMS).* If you are using a control device to comply with the emission standards in § 63.3320, you must install, operate, and maintain each CPMS specified in paragraphs (e)(10) and (11) and (f) of this section according to the requirements in paragraphs (e)(1) through (9) of this section. You must install, operate, and maintain each CPMS specified in paragraph (c) of this section according to paragraphs (e)(5) through (8) of this section.

* * * * *

(2) You must have valid data from at least 90 percent of the hours when the process operated.

* * * * *

(4) You must determine the block 3-hour average of all recorded readings for each operating period. To calculate the average for each 3-hour averaging period, you must have at least two of three of the hourly averages for that period using only average values that are based on valid data (*i.e.,* not from out-of-control periods).

(5) Except for temperature sensors, you must develop a quality control program that must contain, at a minimum, a written protocol that describes the procedures for each of the operations in § 63.3350(e)(5)(i) through (vi). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. For temperature sensors, you must follow the requirements in § 63.3350(e)(10).

(i) Initial and any subsequent calibration of the continuous monitoring system (CMS);

(ii) Determination and adjustment of the calibration drift of the CMS;

(iii) Preventative maintenance of the CMS, including spare parts inventory;

(iv) Data recording, calculations, and reporting;

(v) Accuracy audit procedures, including sampling and analysis methods; and

(vi) Program of corrective action for a malfunctioning CMS.

* * * * *

(10) *Oxidizer.* If you are using an oxidizer to comply with the emission standards of this subpart, you must comply with paragraphs (e)(10)(i) through (vi) of this section.

(i) Install, maintain, and operate temperature monitoring equipment according to the manufacturer's specifications.

(ii) For an oxidizer other than a catalytic oxidizer, install, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Fahrenheit or ±1.8 degrees Fahrenheit, whichever is greater. The temperature sensor must be installed in the combustion chamber at a location in the combustion zone.

(iii) For a catalytic oxidizer, install, operate, and maintain a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in degrees Fahrenheit or ±1.8 degrees Fahrenheit, whichever is greater. The temperature sensor must be installed in the vent stream at the nearest feasible point to the inlet and outlet of the catalyst bed. Calculate the temperature rise across the catalyst.

(iv) For temperature sensors, you must develop a quality control program that must contain, at a minimum, a written protocol that describes the procedures for verifying that the temperature sensor is operating properly using at least one of the methods in paragraph (e)(10)(iv)(A), (B), (C), (D), (E), or (F) of this section. The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator:

(A) Semiannually, compare measured readings to a National Institute of Standards and Technology (NIST) traceable temperature measurement device or simulate a typical operating temperature using a NIST traceable temperature simulation device. When the temperature measurement device method is used, the sensor of the calibrated device must be placed as close as practicable to the process sensor, and both devices must be subjected to the same environmental conditions. The accuracy of the temperature measured must be 2.5 percent of the temperature measured by the NIST traceable device or 5 degrees Fahrenheit whichever is greater.

(B) Annually validate the temperature sensor by following applicable mechanical and electrical validation procedures in the manufacturer owner's manual.

(C) Annually request the temperature sensor manufacturer to certify or re-certify electromotive force (electrical properties) of the thermocouple.

(D) Annually replace the temperature sensor with a new certified temperature sensor in lieu of validation.

(E) Permanently install a redundant temperature sensor as close as practicable to the process temperature sensor. The sensors must yield a reading within 2.5 percent of each other for thermal oxidizers and catalytic oxidizers.

(F) Permanently install a temperature sensor with dual sensors to account for the possibility of failure.

(v) Conduct the validation checks in paragraph (e)(10)(iv)(A), (B), or (C) of this section any time the temperature sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

(vi) At least quarterly, inspect temperature sensor components for proper connection and integrity or continuously operate an electronic monitoring system designed to notify personnel if the signal from the temperature sensor is interrupted.

* * * * *

■ 10. Section 63.3360 is amended by:
■ a. Revising paragraphs (a), (b), (c)(1)(i), and (c)(2) through (4), (d)(1) through (3), and (e)(1) through (3);
■ b. Adding paragraph (e)(4); and
■ c. Revising the paragraphs (f) introductory text and (g).

The revisions and addition read as follows:

§ 63.3360 What performance tests must I conduct?

(a) The performance test methods you must conduct are as follows:

If you control organic HAP on any individual web coating line or any group of web coating lines to demonstrate compliance with the emission limits in § 63.3320 by:	You must:
(1) Limiting organic HAP or volatile matter content of coatings.	Determine the organic HAP or volatile matter and coating solids content of coating materials according to procedures in paragraphs (c) and (d) of this section. If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to paragraph (g) of this section.
(2) Using a capture and control system	(i) Initially, conduct a performance test for each capture and control system to determine: The destruction or removal efficiency of each control device other than solvent recovery according to § 63.3360(e), and the capture efficiency of each capture system according to § 63.3360(f). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g). (ii) Perform a periodic test once every 5 years for each thermal oxidizer to determine the destruction or removal efficiency according to § 63.3360(e). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g). (iii) Either perform a periodic test once every 5 years for each catalytic oxidizer to determine the destruction or removal efficiency according to § 63.3360(e) OR perform a catalyst activity test annually on each catalytic oxidizer to ensure that the catalyst is performing properly according to § 63.3360(e)(3)(ii)(D)(1). If applicable, determine the mass of volatile matter retained in the coated web or otherwise not emitted to the atmosphere according to § 63.3360(g).

(b) *Control Device.* If you are using a control device to comply with the emission standards in § 63.3320, you are not required to conduct a performance test to demonstrate compliance if one or more of the criteria in paragraphs (b)(1) through (3) of this section are met.

(1) The control device is equipped with continuous emission monitoring systems (CEMS) for determining inlet and outlet total organic volatile matter concentration and meeting the requirements of Performance Specification 6, 8, or 9 in Appendix B to 40 CFR Part 60 and capture efficiency

has been determined in accordance with the requirements of this subpart such that an overall organic HAP control efficiency can be calculated, and the CEMS are used to demonstrate continuous compliance in accordance with § 63.3350; or

(2) You have met the requirements of § 63.7(h) (for waiver of performance testing); or

(3) The control device is a solvent recovery system and you comply by means of a monthly liquid-liquid material balance.

(c) * * *

(1) * * *

(i) Include each organic HAP determined to be present at greater than or equal to 0.1 mass percent for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and greater than or equal to 1.0 mass percent for other organic HAP compounds.

* * * * *

(2) *Method 24.* For coatings, determine the volatile organic content as mass fraction of nonaqueous volatile matter and use it as a substitute for organic HAP using Method 24 of appendix A–7 to 40 CFR part 60. The Method 24 determination may be performed by the manufacturer of the coating and the results provided to you. One of the voluntary consensus standards in paragraphs (c)(2)(i) through (v) of this section may be used as an alternative to using Method 24.

(i) ASTM D1963–85 (Reapproved 1996), (incorporated by reference, see § 63.14);

(ii) ASTM D2111–10 (Reapproved 2015), (incorporated by reference, see § 63.14);

(iii) ASTM D2369–10 (Reapproved 2015)[e], (incorporated by reference, see § 63.14);

(iv) ASTM D2697–03 (Reapproved 2014), (incorporated by reference, see § 63.14); and

(v) ASTM D6093–97 (Reapproved 2016), (incorporated by reference, see § 63.14).

(3) *Formulation data.* You may use formulation data to determine the organic HAP mass fraction of a coating material. Formulation data may be provided to the owner or operator by the manufacturer of the material. In the event of an inconsistency between Method 311 (appendix A to this part) test data and a facility's formulation data, and the Method 311 test value is higher, the Method 311 data will govern. Formulation data may be used provided that the information represents all organic HAP present at a level equal to or greater than 0.1 percent for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and equal to or greater than 1.0 percent for other organic HAP compounds in any raw material used.

(4) *As-applied organic HAP mass fraction.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied organic HAP mass fraction is equal to the as-purchased organic HAP mass fraction. Otherwise, the as-applied organic HAP mass fraction must be calculated using Equation 4 of § 63.3370.

(d) * * *

(1) *Method 24.* You may determine the volatile organic and coating solids mass fraction of each coating applied using Method 24 (appendix A–7 to 40 CFR part 60). The Method 24 determination may be performed by the manufacturer of the material and the results provided to you. When using volatile organic compound content as a surrogate for HAP, you may also use ASTM D3960–98, (incorporated by reference, see § 63.14) as an alternative to Method 24. If these values cannot be determined using either of these methods, you must submit an alternative technique for determining their values for approval by the Administrator.

(2) *Formulation data.* You may determine the volatile organic content and coating solids content of a coating material based on formulation data and may rely on volatile organic content data provided by the manufacturer of the material. In the event of any inconsistency between the formulation data and the results of Method 24 of appendix A–7 to 40 CFR part 60 and the Method 24 results are higher, the results of Method 24 will govern.

(3) *As-applied volatile organic content and coating solids content.* If the as-purchased coating material is applied to the web without any solvent or other material added, then the as-applied volatile organic content is equal to the as-purchased volatile content and the as-applied coating solids content is equal to the as-purchased coating solids content. Otherwise, the as-applied volatile organic content must be calculated using Equation 5 to § 63.3370(c)(4) and the as-applied coating solids content must be calculated using Equation 6 to § 63.3370(d).

(e) * * *

(1) *Initial performance test.* An initial performance test to establish the destruction or removal efficiency of the control device used to comply with the emission standards in § 63.3320 must be conducted such that control device inlet and outlet testing is conducted simultaneously, and the data are reduced in accordance with the test methods and procedures in paragraphs (e)(1)(i) through (ix) of this section. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(i) Method 1 or 1A of appendix A–1 to 40 CFR part 60 must be used for sample and velocity traverses to determine sampling locations.

(ii) Method 2, 2A, 2C, 2D, or 2F of appendix A–1 to 40 CFR part 60, or Method 2G of appendix A–2 to 40 CFR part 60 must be used to determine gas volumetric flow rate.

(iii) Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60 must be used for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981 Part 10, (incorporated by reference, see § 63.14).

(iv) Method 4 of appendix A–3 to 40 CFR part 60 must be used to determine stack gas moisture.

(v) Methods for determining the gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(vi) Method 25 or 25A of appendix A–7 to 40 CFR part 60 must be used to determine total gaseous non-methane organic matter concentration. Use the same test method for both the inlet and outlet measurements which must be conducted simultaneously. You must submit notice of the intended test method to the Administrator for approval along with notification of the performance test required under § 63.7(b). You must use Method 25A if any of the conditions described in paragraphs (e)(1)(vi)(A) through (D) of this section apply to the control device.

(A) The control device is not an oxidizer.

(B) The control device is an oxidizer but an exhaust gas volatile organic matter concentration of 50 ppmv or less is required to comply with the emission standards in § 63.3320; or

(C) The control device is an oxidizer but the volatile organic matter concentration at the inlet to the control system and the required level of control are such that they result in exhaust gas volatile organic matter concentrations of 50 ppmv or less; or

(D) The control device is an oxidizer but because of the high efficiency of the control device the anticipated volatile organic matter concentration at the

control device exhaust is 50 ppmv or less, regardless of inlet concentration.

(vii) Except as provided in § 63.7(e)(3), each performance test must consist of three separate runs with each run conducted for at least 1 hour under the conditions that exist when the affected source is operating under normal operating conditions. For the purpose of determining volatile organic compound concentrations and mass flow rates, the average of the results of all the runs will apply.

(viii) Volatile organic matter mass flow rates must be determined for each run specified in paragraph (e)(1)(vii) of this section using Equation 1:

$$M_f = Q_{sd} C_c [12][0.0416][10^{-6}]$$

Equation 1

Where:

M_f = Total organic volatile matter mass flow rate, kilograms (kg)/hour (h).

Q_{sd} = Volumetric flow rate of gases entering or exiting the control device, as determined according to paragraph (e)(1)(ii) of this section, dry standard cubic meters (dscm)/h.

C_c = Concentration of organic compounds as carbon, ppmv.

12.0 = Molecular weight of carbon.

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter (mol/m³) (@293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(ix) For each run, emission control device destruction or removal efficiency must be determined using Equation 2:

$$E = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100$$

Equation 2

Where:

E = Organic volatile matter control efficiency of the control device, percent.

M_{fi} = Organic volatile matter mass flow rate at the inlet to the control device, kg/h.

M_{fo} = Organic volatile matter mass flow rate at the outlet of the control device, kg/h.

(x) The control device destruction or removal efficiency is determined as the average of the efficiencies determined in the test runs and calculated in Equation 2.

(2) *Process information.* You must record such process information as may be necessary to determine the conditions in existence at the time of the performance test. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(3) *Operating limits.* If you are using one or more add-on control device other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the emission standards in § 63.3320, you must establish the applicable operating limits required by § 63.3321. These operating limits apply to each add-on emission control device, and you must establish the operating limits during the performance test required by paragraph (e) of this section according to the requirements in paragraphs (e)(3)(i) and (ii) of this section.

(i) Thermal oxidizer. If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (e)(3)(i)(A) and (B) of this section.

(A) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(B) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature.

(ii) Catalytic oxidizer. If your add-on control device is a catalytic oxidizer, establish the operating limits according to paragraphs (e)(3)(ii)(A) and (B) or paragraphs (e)(3)(ii)(C) and (D) of this section.

(A) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(B) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature or maintain the 3-hour average temperature difference across the catalyst bed at no less than 80 percent of this average temperature differential, provided that the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature.

(C) As an alternative to monitoring the temperature difference across the catalyst bed, you may monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (e)(3)(ii)(D) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. Maintain the 3-hour average combustion temperature no more than 50 degrees Fahrenheit lower than this average combustion temperature.

(D) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (e)(3)(ii)(C) of this section. The plan must address, at a minimum, the elements specified in paragraphs (e)(3)(ii)(D)(1) through (3) of this section.

(1) Annual sampling and analysis of the catalyst activity (*i.e.,* conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures,

(2) Monthly inspection of the oxidizer system including the burner assembly and fuel supply lines for problems, and

(3) Annual internal and monthly external visual inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found, you must take corrective action consistent with the manufacturer's recommendations and conduct a new performance test to determine destruction efficiency in accordance with this section.

(4) *Control Destruction Efficiency Curve Development.* If you are using one or more add-on control devices other than a solvent recovery system for which you conduct a liquid-liquid material balance to comply with the emission standards in § 63.3320, you may establish a control destruction efficiency curve for use in estimating emissions that occur during deviations of the 3-hour operating parameters. This curve can be generated using test data or manufacturer's data that specifically documents the level of control at varying temperatures for your control device.

(f) *Capture efficiency.* If you demonstrate compliance by meeting the requirements of § 63.3370(f), (g), (h), (i), (j)(2), (l), (o)(2) or (3), or (q), you must determine capture efficiency using the procedures in paragraph (f)(1), (2), or (3) of this section, as applicable.

* * * * *

(g) *Volatile matter retained in the coated web or otherwise not emitted to the atmosphere.* You may choose to take into account the mass of volatile matter retained in the coated web after curing or drying or otherwise not emitted to the atmosphere when determining compliance with the emission standards in § 63.3320. If you choose this option, you must develop a site- and product-specific emission factor (EF) and determine the amount of volatile matter retained in the coated web or otherwise not emitted using Equation 3 to § 63.3360(g)(1). The EF must be developed by conducting a performance test using an approved EPA test method, or alternative approved by the Administrator by obtaining the average of a three-run test. You may additionally use manufacturer's emissions test data (as long as it replicates the facility's coating formulation and operating conditions), or a mass-balance type approach using a modified Method 24 (including ASTM D5403–93 for radiation-cureable coatings). The EF should equal the proportion of the mass of volatile organics emitted to the mass of volatile organics in the coating materials evaluated. You may use the EF in your compliance calculations only for periods that the work station(s) was (were) used to make the product, or a similar product, corresponding to that produced during the performance test. You must develop a separate EF for each group of different products that you choose to utilize an EF for calculating emissions by conducting a separate performance test for that group of products. You must conduct a periodic performance test to re-establish the EF if there is a change in coating formulation, operating conditions, or other change that could reasonably be expected to increase emissions since the time of the last test that was used to establish the EF.

(1) Calculate the mass of volatile organics retained in the coated web or otherwise not emitted for the month from each group of similar products using Equation 3:

$$M_{vret} = \left(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij}\right) \times (1 - EF_i) \qquad \text{Equation 3}$$

Where:

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

EF_i = Volatile organic matter site- and product-specific emission factor (three-run average determined from performance testing, evaluated as proportion of mass volatile organics emitted to mass of volatile organics in the coatings used during the performance test).

(2) [Reserved]

* * * * *

■ 11. Section 63.3370 is amended by:

■ a. Adding introductory text;

■ b. Revising paragraphs (a), (c)(1)(ii), (c)(2)(i) and (ii), (c)(3) and (4), and (d);

■ c. Redesignating paragraphs (e) through (p) as paragraphs (f) through (q);

■ d. Adding new paragraph (e);

■ e. Revising newly redesignated paragraphs (f) through (m) and (o) though (q); and

■ f. Adding paragraphs (r) and (s).

The additions and revisions read as follows:

§ 63.3370 How do I demonstrate compliance with the emission standards?

You must demonstrate compliance each month with the emission limitations in § 63.3320(b)(1) through (4). For each monthly demonstration, you may apply any combination of the emission limitations to each of your web coating lines individually, to each of one or more groupings of your lines (including a single grouping encompassing all lines of your affected source), or to any combination of individual and grouped lines, so long as each web coating line is included in the compliance demonstration for the month (*i.e.,* you are not required to apply the same emission limitation to each of the individual lines or groups of lines). You may change the emission limitation that you apply each month to your individual or grouped lines, and you may change line groupings for your monthly compliance demonstration.

(a) A summary of how you must demonstrate compliance follows:

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
(1) Use of "as-purchased" compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-purchased; or.	Follow the procedures set out in § 63.3370(b).

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-purchased.	Follow the procedures set out in § 63.3370(b).
(2) Use of "as-applied" compliant coating materials.	(i) Each coating material used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and each coating material used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied; or.	Follow the procedures set out in § 63.3370(c)(1). Use either Equation 4 or 5 of § 63.3370 to determine compliance with § 63.3320(b)(2) in accordance with § 63.3370(c)(5)(i).
	(ii) Each coating material used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and each coating material used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied; or.	Follow the procedures set out in § 63.3370(c)(2). Use Equations 6 and 7 of § 63.3370 to determine compliance with § 63.3320(b)(3) in accordance with § 63.3370(c)(5)(i).
	(iii) Monthly average of all coating materials used at an existing affected source does not exceed 0.04 kg organic HAP per kg coating material, and monthly average of all coating materials used at a new affected source does not exceed 0.016 kg organic HAP per kg coating material as-applied on a monthly average basis; or.	Follow the procedures set out in § 63.3370(c)(3). Use Equation 8 of § 63.3370 to determine compliance with § 63.3320(b)(2) in accordance with § 63.3370(c)(5)(ii).
	(iv) Monthly average of all coating materials used at an existing affected source does not exceed 0.2 kg organic HAP per kg coating solids, and monthly average of all coating materials used at a new affected source does not exceed 0.08 kg organic HAP per kg coating solids as-applied on a monthly average basis.	Follow the procedures set out in § 63.3370(c)(4). Use Equation 9 of § 63.3370 to determine compliance with § 63.3320(b)(3) in accordance with § 63.3370(c)(5)(ii).
(3) Tracking total monthly organic HAP applied.	Total monthly organic HAP applied does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(d). Show that total monthly HAP applied (Equation 10 of § 63.3370) is less than the calculated equivalent allowable organic HAP (Equation 17 or 18 of § 63.3370).
(4) Accounting for volatile matter retained in the coated web or otherwise not emitted.	A site- and product-specific emission factor was appropriately established for the group of products for which the site- and product-specific emission factor was used in the compliance calculations.	Follow the procedures set out in § 63.3360(g) and § 63.3370(e)
(5) Use of a capture system and control device.	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or oxidizer outlet organic HAP concentration is no greater than 20 ppmv and capture efficiency is 100 percent; or operating parameters are continuously monitored; or.	Follow the procedures set out in § 63.3370(f) to determine compliance with § 63.3320(b)(1) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(k) if using a control device and CPMS, or § 63.3370(l) if using an oxidizer.
	(ii) Overall organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis;.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.
	(iii) Overall organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.
	(iv) Overall organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370). Calculate the monthly organic HAP emission rate according to § 63.3370(j) if using a solvent recovery device, or § 63.3370(l) if using an oxidizer.

If you choose to demonstrate compliance by:	Then you must demonstrate that:	To accomplish this:
(6) Use of multiple capture and/or control devices.	(i) Overall organic HAP control efficiency is equal to 95 percent at an existing affected source and 98 percent at a new affected source on a monthly basis; or.	Follow the procedures set out in § 63.3370(f) to determine compliance with § 63.3320(b)(1) according to § 63.3370(f)(1) or (2).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(o).
	(iii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(o).
	(iv) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370) according to § 63.3370(o).
(7) Use of a combination of compliant coatings and control devices.	(i) Average equivalent organic HAP emission rate does not exceed 0.2 kg organic HAP per kg coating solids for an existing affected source or 0.08 kg organic HAP per kg coating solids for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(g) to determine compliance with § 63.3320(b)(3) according to § 63.3370(o).
	(ii) Average equivalent organic HAP emission rate does not exceed 0.04 kg organic HAP per kg coating material for an existing affected source or 0.016 kg organic HAP per kg coating material for a new affected source on a monthly average as-applied basis; or.	Follow the procedures set out in § 63.3370(h) to determine compliance with § 63.3320(b)(2) according to § 63.3370(o).
	(iii) Average equivalent organic HAP emission rate does not exceed the calculated limit based on emission limitations.	Follow the procedures set out in § 63.3370(i). Show that the monthly organic HAP emission rate is less than the calculated equivalent allowable organic HAP emission rate (Equation 17 or 18 of § 63.3370) according to § 63.3370(o).
(8) Use of non-HAP coatings	All coatings for all coating lines at an affected source have organic HAP contents below 0.1 percent by mass for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200, and below 1.0 percent by mass for other organic HAP compounds.	Follow the procedures set out in § 63.3370(s).

* * * * *

(c) * * *

(1) * * *

(ii) Calculate the as-applied organic HAP content of each coating material using Equation 4:

$$C_{ahi} = \frac{\left(C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 4

Where:

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg. or calculate the as-applied volatile organic content of each coating material using Equation 5:

$$C_{avi} = \frac{\left(C_{vi}M_i + \sum_{j=1}^{q} C_{vij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 5

Where:

C_{avi} = Monthly average, as-applied, volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(2) * * *

(i) Determine the as-applied coating solids content of each coating material following the procedure in § 63.3360(d). You must calculate the as-applied coating solids content of coating materials which are reduced, thinned, or diluted prior to application, using Equation 6:

$$C_{asi} = \frac{\left(C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij}\right)}{M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 6

Where:

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ii) Calculate the as-applied organic HAP to coating solids ratio using Equation 7:

$$H_{si} = \frac{C_{ahi}}{C_{asi}}$$

Equation 7

Where:

H_{si} = As-applied, organic HAP to coating solids ratio of coating material, i.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

C_{asi} = Monthly average, as-applied, coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

(3) *Monthly average organic HAP content of all coating materials as-applied is less than the mass percent limit (§ 63.3320(b)(2)).* Demonstrate that the monthly average as-applied organic HAP content of all coating materials applied at an existing affected source is less than 0.04 kg organic HAP per kg of coating material applied, and all coating materials applied at a new affected source are less than 0.016 kg organic HAP per kg of coating material applied, as determined by Equation 8:

$$H_L = \frac{\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 8

Where:

H_L = Monthly average, as-applied, organic HAP content of all coating materials applied, expressed as kg organic HAP per kg of coating material applied, kg/kg.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere,

kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(4) *Monthly average organic HAP content of all coating materials as-applied is less than the mass fraction of coating solids limit (§ 63.3320(b)(3)).* Demonstrate that the monthly average as-applied organic HAP content on the basis of coating solids applied of all coating materials applied at an existing affected source is less than 0.20 kg organic HAP per kg coating solids applied, and all coating materials applied at a new affected source are less than 0.08 kg organic HAP per kg coating solids applied, as determined by Equation 9:

$$H_s = \frac{\sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret}}{\sum_{i=1}^{p} C_{si} M_i + \sum_{j=1}^{q} C_{sij} M_{ij}}$$

Equation 9

Where:

H_s = Monthly average, as-applied, organic HAP to coating solids ratio, kg organic HAP/kg coating solids applied.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

* * * * *

(d) *Monthly allowable organic HAP applied.* Demonstrate that the total monthly organic HAP applied as determined by Equation 10 is less than the calculated equivalent allowable organic HAP as determined by Equation 17 or 18 in paragraph (m) of this section:

$$H_m = \sum_{i=1}^{p} C_{hi} M_i + \sum_{j=1}^{q} C_{hij} M_{ij} - M_{vret}$$

Equation 10

Where:

H_m = Total monthly organic HAP applied, kg.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in § 63.3370.

(e) *Accounting for volatile matter retained in the coated web or otherwise not emitted.* If you choose to use the equation in § 63.3360(g) to take into account volatile organic matter that is retained in the coated web or otherwise not emitted, you must identify each group of similar products that can utilize each site- and product-specific emission factor. Details regarding the test methods and calculations are provided in § 63.3360(g).

(f) *Capture and control to reduce emissions to no more than allowable limit (§ 63.3320(b)(1)).* Operate a capture system and control device and demonstrate an overall organic HAP control efficiency of at least 95 percent at an existing affected source and at least 98 percent at a new affected source for each month, or operate a capture system and oxidizer so that an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis is achieved as long as the capture efficiency is 100 percent as detailed in § 63.3320(b)(4). Unless one of the cases described in paragraph (f)(1), (2), or (3) of this section applies to the affected source, you must either demonstrate compliance in accordance with the procedure in paragraph (i) of this section when emissions from the affected source are controlled by a solvent recovery device, or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer or demonstrate compliance for a web coating line by operating each capture system and each control device and continuous parameter monitoring according to the procedures in paragraph (k) of this section.

(1) If the affected source has only always-controlled work stations and operates more than one capture system or more than one control device, you must demonstrate compliance in accordance with the provisions of either paragraph (o) or (q) of this section.

(2) If the affected source operates one or more never-controlled work stations or one or more intermittently-controlled work stations, you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section.

(3) An alternative method of demonstrating compliance with § 63.3320(b)(1) is the installation of a PTE around the web coating line that

achieves 100 percent capture efficiency and ventilation of all organic HAP emissions from the total enclosure to an oxidizer with an outlet organic HAP concentration of no greater than 20 ppmv on a dry basis. If this method is selected, you must demonstrate compliance by following the procedures in paragraphs (f)(3)(i) and (ii) of this section. Compliance is determined according to paragraph (f)(3)(iii) of this section.

(i) Demonstrate that a total enclosure is installed. An enclosure that meets the requirements in § 63.3360(f)(1) will be considered a total enclosure.

(ii) Determine the organic HAP concentration at the outlet of your total enclosure using the procedures in paragraph (f)(3)(ii)(A) or (B) of this section.

(A) Determine the control device efficiency using Equation 2 of § 63.3360 and the applicable test methods and procedures specified in § 63.3360(e).

(B) Use a CEMS to determine the organic HAP emission rate according to paragraphs (j)(2)(i) through (x) of this section.

(iii) You are in compliance if the installation of a total enclosure is demonstrated and the organic HAP concentration at the outlet of the incinerator is demonstrated to be no greater than 20 ppmv on a dry basis.

(g) *Capture and control to achieve mass fraction of coating solids applied limit (§ 63.3320(b)(3)).* Operate a capture system and control device and limit the organic HAP emission rate from an existing affected source to no more than 0.20 kg organic HAP emitted per kg coating solids applied, and from a new affected source to no more than 0.08 kg organic HAP emitted per kg coating solids applied as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(h) *Capture and control to achieve mass fraction limit (§ 63.3320(b)(2)).* Operate a capture system and control device and limit the organic HAP emission rate to no more than 0.04 kg organic HAP emitted per kg coating material applied at an existing affected source, and no more than 0.016 kg organic HAP emitted per kg coating material applied at a new affected source as determined on a monthly average as-applied basis. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, you must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(i) *Capture and control to achieve allowable emission rate.* Operate a capture system and control device and limit the monthly organic HAP emissions to less than the allowable emissions as calculated in accordance with paragraph (m) of this section. If the affected source operates more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations, then you must demonstrate compliance in accordance with the provisions of paragraph (o) of this section. Otherwise, the owner or operator must demonstrate compliance following the procedure in paragraph (j) of this section when emissions from the affected source are controlled by a solvent recovery device or the procedure in paragraph (l) of this section when emissions are controlled by an oxidizer.

(j) *Solvent recovery device compliance demonstration.* If you use a solvent recovery device to control emissions, you must show compliance by following the procedures in either paragraph (j)(1) or (2) of this section:

(1) *Liquid-liquid material balance.* Perform a monthly liquid-liquid material balance as specified in paragraphs (j)(1)(i) through (v) of this section and use the applicable equations in paragraphs (j)(1)(vi) through (ix) of this section to convert the data to units of the selected compliance option in paragraphs (f) through (i) of this section. Compliance is determined in accordance with paragraph (j)(1)(x) of this section.

(i) Determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common solvent recovery device during the month.

(ii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(iii) Determine the volatile organic content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(v) Determine and monitor the amount of volatile organic matter recovered for the month according to the procedures in § 63.3350(d).

(vi) *Recovery efficiency.* Calculate the volatile organic matter collection and recovery efficiency using Equation 11:

$$R_v = \frac{M_{vr} + M_{vret}}{\sum_{i=1}^{p} C_{vi} M_i + \sum_{j=1}^{q} C_{vj} M_j} \times 100$$

Equation 11

Where:

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{vr} = Mass of volatile matter recovered in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter

retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

p = Number of different coating materials applied in a month.

C_{vi} = Volatile organic content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{vij} = Volatile organic content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(vii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 12:

$$H_e = \left[1 - \frac{R_v}{100}\right]\left[\sum_{i=1}^{p} C_{hi}M_i + \sum_{j=1}^{q} C_{hij}M_{ij} - M_{vret}\right]$$

Equation 12

Where:

H_e = Total monthly organic HAP emitted, kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

p = Number of different coating materials applied in a month.

C_{hi} = Organic HAP content of coating material, i, as-purchased, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{hij} = Organic HAP content of material, j, added to as-purchased coating material, i, expressed as a mass fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(viii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 13:

$$L = \frac{H_e}{\sum_{i=1}^{p} C_{si}M_i + \sum_{j=1}^{q} C_{sij}M_{ij}}$$

Equation 13

Where:

L = Mass organic HAP emitted per mass of coating solids applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

C_{sij} = Coating solids content of material, j, added to as-purchased coating material, i, expressed as a mass-fraction, kg/kg.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(ix) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14:

$$S = \frac{H_e}{\sum_{i=1}^{p} M_i + \sum_{j=1}^{q} M_{ij}}$$

Equation 14

Where:

S = Mass organic HAP emitted per mass of material applied, kg/kg.

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

q = Number of different materials added to the coating material.

M_{ij} = Mass of material, j, added to as-purchased coating material, i, in a month, kg.

(x) You are in compliance with the emission standards in § 63.3320(b) if:

(A) The volatile organic matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(2) *Continuous emission monitoring of capture system and control device performance.* Demonstrate initial compliance through a performance test on capture efficiency and continuing compliance through continuous emission monitors and continuous monitoring of capture system operating parameters following the procedures in paragraphs (j)(2)(i) through (vii) of this

section. Use the applicable equations specified in paragraphs (j)(2)(viii) through (x) of this section to convert the monitoring and other data into units of the selected compliance option in paragraphs (f) through (i) of this section. Compliance is determined in accordance with paragraph (j)(2)(xi) of this section.

(i) *Control device efficiency.* Continuously monitor the gas stream entering and exiting the control device to determine the total organic volatile matter mass flow rate (*e.g.,* by determining the concentration of the vent gas in grams per cubic meter and the volumetric flow rate in cubic meters per second such that the total organic volatile matter mass flow rate in grams per second can be calculated) such that the control device efficiency of the control device can be calculated for each month using Equation 2 of § 63.3360.

(ii) *Capture efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(f) to ensure capture efficiency.

(iii) Determine the percent capture efficiency in accordance with § 63.3360(f).

(iv) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved for each month using Equation 15:

$$R = \frac{(E)(CE)}{100}$$

Equation 15

Where:

R = Overall organic HAP control efficiency, percent.

E = Organic volatile matter control efficiency of the control device, percent.

CE = Organic volatile matter capture efficiency of the capture system, percent.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common control device during the month.

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vii) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material as-applied during the month following the procedure in § 63.3360(d).

(viii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month for each month using Equation 16:

$$H_e = (1-R)\left(\sum_{i=1}^{p} C_{ahi} M_i\right) - M_{vret}$$

Equation 16

Where:

H_e = Total monthly organic HAP emitted, kg.

R = Overall organic HAP control efficiency, percent.

p = Number of different coating materials applied in a month.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(ix) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied using Equation 13 of this section.

(x) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14 of this section.

(xi) *Compare actual performance to the performance required by compliance option.* The affected source is in compliance with the emission standards in § 63.3320(b) for each month if the capture system is operated such that the average capture system operating parameter is greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(A) The organic volatile matter collection and recovery efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(B) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(C) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(D) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(k) *Capture and control system compliance demonstration procedures using a CPMS.* If you use an add-on control device, you must demonstrate initial compliance for each capture system and each control device through performance tests and demonstrate continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (k)(1) through (3) of this section. Compliance is determined in accordance with paragraph (k)(4) or (k)(5) of this section.

(1) Determine the control device destruction or removal efficiency using

the applicable test methods and procedures in § 63.3360(e).

(2) Determine the emission capture efficiency in accordance with § 63.3360(f).

(3) Whenever a web coating line is operated, continuously monitor the operating parameters established according to § 63.3350(e) and (f).

(4) *No operating limit deviations.* You are in compliance with the emission standards in § 63.3320(b) if the thermal oxidizer is operated such that the average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(i) for each 3-hour period or if the catalytic oxidizer is operating such that the three-hour average temperature difference across the bed does not fall more than 80 percent of the average temperature established in accordance with § 63.3360(e)(3)(ii) and the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature, or the catalytic oxidizer average combustion temperature does not fall more than 50 °F below the temperature established in accordance with § 63.3360(e)(3)(ii) for each 3-hour period, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(5) *Operating limit deviations.* If one or more operating limit deviations occurred during the monthly averaging period, compliance with the emission standards in § 63.3320(b) is determined by either assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve during each 3-hour period that was a deviation. You are in compliance with the emission standards in § 63.3320(b) if, including the periods of deviations:

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(l) *Oxidizer compliance demonstration procedures.* If you use an oxidizer to control emissions to comply with this subpart, you must show compliance by following the procedures in paragraph (l)(1) of this section. Use the applicable equations specified in paragraph (l)(2) of this section to convert the monitoring and other data into units of the selected compliance option in paragraph (f) through (i) of this section. Compliance is determined in accordance with paragraph (l)(3) or (l)(4) of this section.

(1) Demonstrate initial compliance through performance tests of capture efficiency and control device efficiency and continuing compliance through continuous monitoring of capture system and control device operating parameters as specified in paragraphs (l)(1)(i) through (vi) of this section:

(i) Determine the oxidizer destruction efficiency using the procedure in § 63.3360(e).

(ii) Determine the capture system capture efficiency in accordance with § 63.3360(f).

(iii) *Capture and control efficiency monitoring.* Whenever a web coating line is operated, continuously monitor the operating parameters established in accordance with § 63.3350(e) and (f) to ensure capture and control efficiency.

(iv) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating materials applied, or emission of less than the calculated allowable organic HAP, determine the mass of each coating material applied on the web coating line or group of web coating lines controlled by a common oxidizer during the month.

(v) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied, organic HAP emission rate based on coating material applied, or emission of less than the calculated allowable organic HAP, determine the organic HAP content of each coating material as-applied during the month following the procedure in § 63.3360(c).

(vi) If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(2) Convert the information obtained under paragraph (q)(1) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (l)(2)(i) through (iv) of this section.

(i) *Control efficiency.* Calculate the overall organic HAP control efficiency achieved using Equation 15.

(ii) *Organic HAP emitted.* Calculate the organic HAP emitted during the month using Equation 16.

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 13.

(iv) *Organic HAP emission rate based on coating materials applied.* Calculate the organic HAP emission rate based on coating material applied using Equation 14.

(3) *No operating limit deviations.* You are in compliance with the emission standards in § 63.3320(b) if the oxidizer is operated such that the average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(i) for each 3-hour period, or the catalytic oxidizer average combustion temperature does not fall more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e)(3)(ii) for each 3-hour period or the temperature difference across the bed does not fall more than 80 percent of the average temperature established in accordance with § 63.3360(e)(3)(ii) and the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature, and the capture system operating parameter is operated at an average value greater than or less than (as appropriate) the operating parameter value established in accordance with § 63.3350(f); and

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(4) *Operating limit deviations.* If one or more operating limit deviations occurred during the monthly averaging period, compliance with the emission standards in § 63.3320(b) is determined by assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve during each 3-hour period that was a deviation. You are in compliance with the emission standards in § 63.3320(b) if, including the periods of deviation:

(i) The overall organic HAP control efficiency is 95 percent or greater at an existing affected source and 98 percent or greater at a new affected source; or

(ii) The organic HAP emission rate based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The organic HAP emission rate based on coating material applied is no more than 0.04 kg organic HAP per kg coating material applied at an existing affected source and no more than 0.016 kg organic HAP per kg coating material applied at a new affected source; or

(iv) The organic HAP emitted during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section.

(m) *Monthly allowable organic HAP emissions.* This paragraph provides the procedures and calculations for determining monthly allowable organic HAP emissions for use in demonstrating compliance in accordance with paragraph (d), (i), (j)(1)(x)(D), (j)(2)(xi)(D), or (l)(3)(iv) of this section. You will need to determine the amount of coating material applied at greater than or equal to 20 mass percent coating solids and the amount of coating material applied at less than 20 mass percent coating solids. The allowable organic HAP limit is then calculated based on coating material applied at greater than or equal to 20 mass percent coating solids complying with 0.2 kg organic HAP per kg coating solids at an existing affected source or 0.08 kg organic HAP per kg coating solids at a new affected source, and coating material applied at less than 20 mass percent coating solids complying with 4 mass percent organic HAP at an existing affected source and 1.6 mass-percent organic HAP at a new affected source as follows:

(1) Determine the as-purchased mass of each coating material applied each month.

(2) Determine the as-purchased coating solids content of each coating material applied each month in accordance with § 63.3360(d)(1).

(3) Determine the as-purchased mass fraction of each coating material which was applied at 20 mass percent or greater coating solids content on an as-applied basis.

(4) Determine the total mass of each solvent, diluent, thinner, or reducer added to coating materials which were applied at less than 20 mass percent coating solids content on an as-applied basis each month.

(5) Calculate the monthly allowable organic HAP emissions using Equation 17 for an existing affected source:

$$H_a = 0.20\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.04\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{L_j}\right]$$

Equation 17

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent coating solids content, on an as-applied basis, in a month, kg.

or Equation 18 for a new affected source:

$$H_a = 0.08\left[\sum_{i=1}^{p} M_i G_i C_{si}\right] + 0.016\left[\sum_{i=1}^{p} M_i (1 - G_i) + \sum_{j=1}^{q} M_{L_j}\right]$$

Equation 18

Where:

H_a = Monthly allowable organic HAP emissions, kg.

p = Number of different coating materials applied in a month.

M_i = Mass of as-purchased coating material, i, applied in a month, kg.

G_i = Mass fraction of each coating material, i, which was applied at 20 mass percent or greater coating solids content, on an as-applied basis, kg/kg.

C_{si} = Coating solids content of coating material, i, expressed as a mass fraction, kg/kg.

q = Number of different materials added to the coating material.

M_{Lj} = Mass of non-coating-solids-containing coating material, j, added to coating-solids-containing coating materials which were applied at less than 20 mass percent coating solids content, on an as-applied basis, in a month, kg.

* * * * *

(o) *Combinations of capture and control.* If you operate more than one capture system, more than one control device, one or more never-controlled work stations, or one or more intermittently-controlled work stations,

you must calculate organic HAP emissions according to the procedures in paragraphs (o)(1) through (4) of this section, and use the calculation procedures specified in paragraph (o)(5) of this section to convert the monitoring and other data into units of the selected control option in paragraphs (f) through (i) of this section. Use the procedures specified in paragraph (o)(6) of this section to demonstrate compliance.

(1) *Solvent recovery system using liquid-liquid material balance compliance demonstration.* If you choose to comply by means of a liquid-liquid material balance for each solvent recovery system used to control one or more web coating lines, you must determine the organic HAP emissions for those web coating lines controlled by that solvent recovery system either:

(i) In accordance with paragraphs (j)(1)(i) through (iii) and (v) through (vii) of this section, if the web coating lines controlled by that solvent recovery system have only always-controlled work stations; or

(ii) In accordance with paragraphs (j)(1)(ii), (iii), (v), and (vi) and (p) of this section, if the web coating lines controlled by that solvent recovery system have one or more never-controlled or intermittently-controlled work stations.

(2) *Solvent recovery system using performance test compliance demonstration and CEMS.* To demonstrate compliance through an initial test of capture efficiency, continuous monitoring of a capture system operating parameter, and a CEMS on each solvent recovery system used to control one or more web coating lines, you must:

(i) For each capture system delivering emissions to that solvent recovery system, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture system efficiency; and

(ii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that solvent recovery system either:

(A) In accordance with paragraphs (j)(2)(i) through (iii), (v), (vi), and (viii) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (j)(2)(i) through (iii), (vi), and (p) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(3) *Oxidizer.* To demonstrate compliance through performance tests of capture efficiency and control device efficiency, continuous monitoring of capture system, and CPMS for control device operating parameters for each oxidizer used to control emissions from one or more web coating lines, you must:

(i) Monitor the operating parameter in accordance with § 63.3350(e) to ensure control device efficiency; and

(ii) For each capture system delivering emissions to that oxidizer, monitor the operating parameter established in accordance with § 63.3350(f) to ensure capture efficiency; and

(iii) Determine the organic HAP emissions for those web coating lines served by each capture system delivering emissions to that oxidizer either:

(A) In accordance with paragraphs (l)(1)(i) through (vi) of this section, if the web coating lines served by that capture and control system have only always-controlled work stations; or

(B) In accordance with paragraphs (l)(1)(i) through (iii), (v), and (p) of this section, if the web coating lines served by that capture and control system have one or more never-controlled or intermittently-controlled work stations.

(4) *Uncontrolled coating lines.* If you own or operate one or more uncontrolled web coating lines, you must determine the organic HAP applied on those web coating lines using Equation 10. The organic HAP emitted from an uncontrolled web coating line is equal to the organic HAP applied on that web coating line.

(5) Convert the information obtained under paragraphs (o)(1) through (4) of this section into the units of the selected compliance option using the calculation procedures specified in paragraphs (o)(5)(i) through (iv) of this section.

(i) *Organic HAP emitted.* Calculate the organic HAP emissions for the affected source for the month by summing all organic HAP emissions calculated according to paragraphs (o)(1), (o)(2)(ii), (o)(3)(iii), and (o)(4) of this section.

(ii) *Coating solids applied.* If demonstrating compliance on the basis of organic HAP emission rate based on coating solids applied or emission of less than the calculated allowable organic HAP, the owner or operator must determine the coating solids content of each coating material applied during the month following the procedure in § 63.3360(d).

(iii) *Organic HAP emission rate based on coating solids applied.* Calculate the organic HAP emission rate based on coating solids applied for each month using Equation 13.

(iv) *Organic HAP based on materials applied.* Calculate the organic HAP emission rate based on material applied using Equation 14.

(6) *Compliance.* The affected source is in compliance with the emission standards in § 63.3320(b) for the month if all operating parameters required to be monitored under paragraphs (o)(1) through (3) of this section were maintained at the values established under §§ 63.3350 and 63.3360 and one of the standards in paragraphs (o)(6)(i) through (iv) of this section were met. If operating parameter deviations occurred, the affected source is in compliance with the emission standards in § 63.3320(b) for the month if, assuming no control of emissions or by estimating the emissions using a control destruction efficiency curve for each 3-hour deviation period, one of the standards in paragraphs (6)(i) through (iv) of this section were met.

(i) The total mass of organic HAP emitted by the affected source based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(ii) The total mass of organic HAP emitted by the affected source based on material applied is no more than 0.04 kg organic HAP per kg material applied at an existing affected source and no more than 0.016 kg organic HAP per kg material applied at a new affected source; or

(iii) The total mass of organic HAP emitted by the affected source during the month is less than the calculated allowable organic HAP as determined using paragraph (m) of this section; or

(iv) The total mass of organic HAP emitted by the affected source was not more than 5 percent of the total mass of organic HAP applied for the month at an existing affected source and no more than 2 percent of the total mass of organic HAP applied for the month at a new affected source. The total mass of organic HAP applied by the affected source in the month must be determined using Equation 10.

(p) *Intermittently-controlled and never-controlled work stations.* If you have been expressly referenced to this paragraph by paragraph (o)(1)(ii), (o)(2)(ii)(B), or (o)(3)(iii)(B) of this section for calculation procedures to determine organic HAP emissions for your intermittently-controlled and never-controlled work stations, you must:

(1) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in bypass mode and the mass of all coating materials as-applied on

never-controlled work stations during the month.

(2) Determine the sum of the mass of all coating materials as-applied on intermittently-controlled work stations operating in a controlled mode and the mass of all coating materials applied on always-controlled work stations during the month.

(3) *Liquid-liquid material balance compliance demonstration.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (o)(1)(ii) of this section, you must calculate the organic HAP emitted during the month using Equation 19 of this section:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R_v}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret}$$

Equation 19

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R_v = Organic volatile matter collection and recovery efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(4) *Performance test to determine capture efficiency and control device efficiency.* For each web coating line or group of web coating lines for which you use the provisions of paragraph (o)(2)(ii)(B) or (o)(3)(iii)(B) of this section, you must calculate the organic HAP emitted during the month using Equation 20:

$$H_e = \left[\sum_{i=1}^{p} M_{Ci} C_{ahi}\right]\left[1 - \frac{R}{100}\right] + \left[\sum_{i=1}^{p} M_{Bi} C_{ahi}\right] - M_{vret}$$

Equation 20

Where:

H_e = Total monthly organic HAP emitted, kg.

p = Number of different coating materials applied in a month.

M_{ci} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in controlled mode and the mass of coating material, i, as-applied on always-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

R = Overall organic HAP control efficiency, percent.

M_{Bi} = Sum of the mass of coating material, i, as-applied on intermittently-controlled work stations operating in bypass mode and the mass of coating material, i, as-applied on never-controlled work stations, in a month, kg.

C_{ahi} = Monthly average, as-applied, organic HAP content of coating material, i, expressed as a mass fraction, kg/kg.

M_{vret} = Mass of volatile matter retained in the coated web after curing or drying, or otherwise not emitted to the atmosphere, kg. The value of this term will be zero in all cases except where you choose to take into account the volatile matter retained in the coated web or otherwise not emitted to the atmosphere for the compliance demonstration procedures in this section.

(q) *Always-controlled work stations with more than one capture and control system.* If you operate more than one capture system or more than one control device and only have always-controlled work stations, then you are in compliance with the emission standards in § 63.3320(b)(1) for the month if for each web coating line or group of web coating lines controlled by a common control device:

(1) The volatile matter collection and recovery efficiency as determined by paragraphs (j)(1)(i), (iii), (v), and (vi) of this section is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(2) The overall organic HAP control efficiency as determined by paragraphs (j)(2)(i) through (iv) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source; or

(3) The overall organic HAP control efficiency as determined by paragraphs (l)(1)(i) through (iii) and (l)(2)(i) of this section for each web coating line or group of web coating lines served by that control device and a common capture system is at least 95 percent at an existing affected source and at least 98 percent at a new affected source.

(r) *Mass-balance approach.* As an alternative to § 63.3370(b) through (p), you may demonstrate monthly compliance using a mass-balance approach in accordance with this section, except for any month that you elect to meet the emission limitation in § 63.3320(b)(4). The mass-balance approach should be performed as follows:

(1) Separately for each individual/grouping(s) of lines, you must sum the mass of organic HAP emitted during the month and divide by the corresponding total mass of all organic HAP applied on the lines, or total mass of coating materials applied on the lines, or total mass of coating solids applied on the lines, for the same period, in accordance with the emission limitation that you have elected at § 63.3320(b)(1) through (3) for the month's demonstration. You may also choose to use volatile organic content as a surrogate for organic HAP for the compliance demonstration in accordance with § 63.3360(d). You are required to include all emissions and inputs that occur during periods that each line or grouping of lines operates in accordance with the applicability criteria in § 63.3300.

(2) You must include all of the organic HAP emitted by your individual/grouping(s) of lines, as follows.

(i) You must record the mass of organic HAP or volatile organic content utilized at all work stations of all of your individually/grouping(s) of lines. You must additionally record the mass of all coating materials applied at these work stations if you are demonstrating compliance for the month with the emission limitation at § 63.3320(b)(2) (the "coating materials" option). You must additionally record the mass of all coating solids applied at these work stations if you are demonstrating compliance for the month with the emission limitation at § 63.3320(b)(3) (the "coating solids" option).

(ii) You must assume that all of the organic HAP input to all never-controlled work stations is emitted, unless you have determined an emission factor in accordance with § 63.3360(g).

(iii) For all always-controlled work stations, you must assume that all of the organic HAP or volatile organic content is emitted, less the reductions provided by the corresponding capture system and control device, in accordance with the most recently measured capture and destruction efficiencies, or in accordance with the measured mass of volatile organic compounds (VOC) recovered for the month (*e.g.,* carbon control or condensers). You may account for organic HAP or volatile organic content retained in the coated web or otherwise not emitted if you have determined an emission factor in accordance with § 63.3360(g).

(iv) For all intermittently-controlled work stations, you must assume that all of the organic HAP or volatile organic content is emitted during periods of no control. During periods of control, you must assume that all of the organic HAP or volatile organic content is emitted, less the reductions provided by the corresponding capture system and control device, in accordance with the most recently measured capture and destruction efficiencies, or in accordance with the measured mass of VOC recovered for the month (*e.g.,* carbon control or condensers). You may account for organic HAP or volatile organic content retained in the coated web or otherwise not emitted if you have determined an emission factor in accordance with § 63.3360(g).

(v) You must record the organic HAP or volatile organic content input to all work stations of your individual/grouping(s) of lines and the mass of coating materials and/or solids applied, if applicable, and determine corresponding emissions during all periods of operation, including malfunctions or startups and shutdowns of any web coating line or control device.

(3) You are in compliance with the emission standards in § 63.3320(b) if each of your individual/grouping(s) of lines, meets one of the requirements in paragraphs (r)(3)(i) through (iii) of this section, as applicable. If operating parameter limit deviations occurred, including periods that the oxidizer control device(s), if any, operated at an average combustion temperature more than 50 degrees Fahrenheit below the temperature established in accordance with § 63.3360(e), or the 3-hour average temperature difference across the catalyst bed at no less than 80 percent of this average temperature differential and the catalytic oxidizer maintained a minimum temperature 50 degrees Fahrenheit above the catalyst's ignition temperature, you are in compliance with the emission standards in § 63.3320(b) for the month, if assuming no control of emissions for each 3-hour deviation period (or in accordance with an alternate approved method), one of the requirements in paragraphs (r)(3)(i) through (iii) of this section was met.

(i) The total mass of organic HAP emitted by the affected source based on HAP applied is no more than 0.05 kg organic HAP per kg HAP applied at an existing affected source and no more than 0.02 kg organic HAP per kg HAP applied at a new affected source; or

(ii) The total mass of organic HAP emitted by the affected source based on coating solids applied is no more than 0.20 kg organic HAP per kg coating solids applied at an existing affected source and no more than 0.08 kg organic HAP per kg coating solids applied at a new affected source; or

(iii) The total mass of organic HAP emitted by the affected source based on material applied is no more than 0.04 kg organic HAP per kg material applied at an existing affected source and no more than 0.016 kg organic HAP per kg material applied at a new affected source.

(s) *Non-HAP coating.* You must demonstrate that all of the coatings applied at all of the web coating lines at the affected source have organic HAP contents below 0.1 percent by mass for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200, and below 1.0 percent by mass for other organic HAP compounds using the procedures in § 63.3370(s)(1) through (3).

(1) Determine the organic HAP mass fraction of each coating material "as purchased" by following one of the procedures in paragraphs § 63.3360(c)(1) through (3) and determine the organic HAP mass fraction of each coating material "as applied" by following the procedures in paragraph § 63.3360(c)(4).

(2) Submit to your permitting authority a report certifying that all coatings applied at all of the web coating lines at your effected source are non-HAP coatings.

(3) Maintain records of coating formulations used as required in § 63.3410(a)(1)(iii).

(4) Resume reporting requirements if any of the coating formulations are modified to exceed the thresholds in § 63.3370(s) or new coatings which exceed the thresholds in paragraph (s) of this section are used.

■ 12. Section 63.3400 is amended by:
■ a. Revising paragraph (a) and paragraph (b) introductory text;
■ b. Revising paragraphs (c)(1)(ii) and (iv), (c)(2) introductory text, (c)(2)(v) and (vi), (e), and (f);
■ c. Redesignating paragraph (g) as paragraph (k) and revising newly redesignated (k) introductory text; and
■ d. Adding new paragraph (g) and paragraphs (h), (i), and (j).

The revisions and additions read as follows:

§ 63.3400 What notifications and reports must I submit?

(a) *Reports.* Each owner or operator of an affected source subject to this subpart must submit the reports specified in paragraphs (b) through (k) of this section to the Administrator.

(b) *Initial notifications.* You must submit an initial notification as required by § 63.9(b), using the procedure in § 63.3400(h).

* * * * *

(c) * * *

(1) * * *

(ii) The first compliance report is due no later than July 31 or January 31, whichever date follows the end of the calendar half immediately following the compliance date that is specified for your affected source in § 63.3330. Prior to the electronic template being available in CEDRI for one year, the report must be postmarked or delivered by the aforementioned dates. After the electronic template has been available in CEDRI for 1 year, the next full report must be submitted electronically as described in paragraph (h) of this section.

* * * * *

(iv) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

* * * * *

(2) *Compliance report contents.* The compliance report must contain the

information in paragraphs (c)(2)(i) through (viii) of this section:

* * * * *

(v) For each deviation from an emission limitation (emission limit or operating limit) that applies to you and that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the following information:

(A) The total operating time of the web coating line(s) during the reporting period.

(B) Information on the number, duration, and cause of deviations (including unknown cause), if applicable, and the corrective action taken.

(C) An estimate of the quantity of each regulated pollutant emitted over the emission limits in § 63.3320 for each monthly period covered in the report if the source failed to meet an applicable emission limit of this subpart.

(vi) For each deviation from an emission limit occurring at an affected source where you are using a CEMS or CPMS to comply with the emission limit in this subpart, you must include the following information:

(A) The total operating time of the web coating line(s) during the reporting period.

(B) The date and time that each CEMS and CPMS, if applicable, was inoperative except for zero (low-level) and high-level checks.

(C) The date and time that each CEMS and CPMS, if applicable, was out-of-control, including the information in § 63.8(c)(8).

(D) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(E) A summary of the total duration (in hours) of each deviation during the reporting period and the total duration of each deviation as a percent of the total source operating time during that reporting period.

(F) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(G) A summary of the total duration (in hours) of CEMS and/or CPMS downtime during the reporting period and the total duration of CEMS and/or CPMS downtime as a percent of the total source operating time during that reporting period.

(H) A breakdown of the total duration of CEMS and/or CPMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, non-monitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes.

(I) The date of the latest CEMS and/or CPMS certification or audit.

(J) A description of any changes in CEMS, CPMS, or controls since the last reporting period.

(K) An estimate of the quantity of each regulated pollutant emitted over the emission limits in § 63.3320 for each monthly period covered in the report if the source failed to meet an applicable emission limit of this subpart.

* * * * *

(e) *Notification of Compliance Status.* You must submit a Notification of Compliance Status as specified in § 63.9(h). For affected sources that commence construction or reconstruction after September 19, 2019, the Notification of Compliance Status must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the Notification of Compliance Status must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(f) *Performance test reports.* You must submit performance test reports as specified in § 63.10(d)(2) if you are using a control device to comply with the emission standard and you have not obtained a waiver from the performance test requirement or you are not exempted from this requirement by § 63.3360(b). Catalyst activity test results are not required to be submitted but must be maintained onsite. Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section. For affected sources that commence construction or reconstruction after September 19, 2019, the performance test reports must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the performance test reports must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(1) *Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to EPA via CEDRI, which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/).* The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on EPA's ERT website.

(2) *Data collected using test methods that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (f)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in paragraph (f)(1) of this section.

(g) *Performance evaluation reports.* You must submit the results of performance evaluations within 60 days of completing each CMS performance evaluation (as defined in § 63.2) following the procedures specified in paragraphs (g)(1) through (3) of this section. For affected sources that commence construction or reconstruction after September 19, 2019, the performance evaluation reports must be submitted electronically using the procedure in paragraph (h) of this section. For affected sources that commenced construction or reconstruction on or before September 19, 2019, the performance evaluation reports must be submitted electronically using the procedure in paragraph (h) starting July 9, 2021.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by EPA's ERT as listed on EPA's ERT*

website at the time of the evaluation. Submit the results of the performance evaluation to EPA via CEDRI, which can be accessed through EPA's CDX. The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (g)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in paragraph (g)(1) of this section.

(h) *Electronic reporting.* If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to EPA via CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/).* Initial notifications and notifications of compliance status must be submitted as portable document formats (PDF) to CEDRI using the attachment module of the ERT. You must use the semiannual compliance report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri)* for this subpart 1 year after it becomes available. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI to EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described earlier in this paragraph.

(i) *Extension for CDX/CEDRI outage.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (i)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(j) *Extension for force majeure events.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (j)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

(k) *SSM reports.* For affected sources that commenced construction or reconstruction before September 19, 2019, you must submit SSM reports as specified in § 63.10(d)(5), except that the provisions in subpart A of this part pertaining to startups, shutdowns, and malfunctions do not apply unless a control device is used to comply with this subpart. On and after, July 9, 2021, and for affected sources that commence construction or reconstruction after

September 19, 2019, this section is no longer relevant.

* * * * *

■ 13. Section 63.3410 is revised to read as follows:

§ 63.3410 What records must I keep?

(a) Each owner or operator of an affected source subject to this subpart must maintain the records specified in paragraphs (a)(1) and (2) of this section on a monthly basis in accordance with the requirements of § 63.10(b)(1):

(1) Records specified in § 63.10(b)(2) of all measurements needed to demonstrate compliance with this standard as indicated in Table 2 to Subpart JJJJ of Part 63, including:

(i) Continuous emission monitor data in accordance with the requirements of § 63.3350(d);

(ii) Control device and capture system operating parameter data in accordance with the requirements of § 63.3350(c), (e), and (f);

(iii) Organic HAP content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(c);

(iv) Volatile matter and coating solids content data for the purpose of demonstrating compliance in accordance with the requirements of § 63.3360(d);

(v) Overall control efficiency determination using capture efficiency and control device destruction or removal efficiency test results in accordance with the requirements of § 63.3360(e) and (f);

(vi) Material usage, organic HAP usage, volatile matter usage, and coating solids usage and compliance demonstrations using these data in accordance with the requirements of § 63.3370(b), (c), and (d); and

(vii) Emission factor development calculations and HAP content for coating materials used to develop the emission factor as needed for § 63.3360(g).

(2) Records specified in § 63.10(c) for each CMS operated by the owner or operator in accordance with the requirements of § 63.3350(b), as indicated in Table 2 to Subpart JJJJ of Part 63.

(b) Each owner or operator of an affected source subject to this subpart must maintain records of all liquid-liquid material balances performed in accordance with the requirements of § 63.3370. The records must be maintained in accordance with the applicable requirements of § 63.10(b).

(c) For each deviation from an operating limit occurring at an affected source, you must record the following information.

(1) The total operating time the web coating line(s) controlled by the corresponding add-on control device and/or emission capture system during the reporting period.

(2) Date, time, duration, and cause of the deviations.

(3) If the facility determines by its monthly compliance demonstration, in accordance with § 63.3370, as applicable, that the source failed to meet an applicable emission limit of this subpart, you must record the following for the corresponding affected equipment:

(i) Record an estimate of the quantity of HAP (or VOC if used a surrogate in accordance with § 63.3360(d)) emitted in excess of the emission limit for the month, and a description of the method used to estimate the emissions.

(ii) Record actions taken to minimize emissions in accordance with § 63.3340(a), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(d) Records of results from the annual catalyst activity test, if applicable.

(e) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 14. Section 63.3420 is revised to read as follows:

§ 63.3420 What authorities may be delegated to the States?

(a) In delegating implementation and enforcement authority to a state, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (b) of this section must be retained by the EPA Administrator and not transferred to a state, local, or tribal agency.

(b) Authority which will not be delegated to state, local, or tribal agencies are listed in paragraphs (b)(1) and (2) of this section:

(1) Approval of alternate test method for organic HAP content determination under § 63.3360(c).

(2) Approval of alternate test method for volatile matter determination under § 63.3360(d).

■ 15. Table 1 to subpart JJJJ is revised to read as follows:

Table 1 to Subpart JJJJ of Part 63—Operating Limits if Using Add-On Control Devices and Capture System

If you are required to comply with operating limits by § 63.3321, you must comply with the applicable operating limits in the following table:

For the following device:	You must meet the following operating limit:	And you must demonstrate continuous compliance with operating limits by:
1. Thermal oxidizer	a. The average combustion temperature in any 3-hour period must not fall more than 50 °F below the combustion temperature limit established according to § 63.3360(e)(3)(i).	i. Collecting the combustion temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer	a. The average temperature at the inlet to the catalyst bed in any 3-hour period must not fall more than 50 degrees Fahrenheit below the combustion temperature limit established according to § 63.3360(e)(3)(ii).	i. Collecting the catalyst bed inlet temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average catalyst bed inlet temperature at or above the temperature limit.
	b. The temperature rise across the catalyst bed must not fall below 80 percent of the limit established according to § 63.3360(e)(3)(ii), provided that the minimum temperature is always 50 degrees Fahrenheit above the catalyst's ignition temperature.	i. Collecting the catalyst bed inlet and outlet temperature data according to § 63.3350(e)(10); ii. Reducing the data to 3-hour block averages; and iii. Maintain the 3-hour average temperature rise across the catalyst bed at or above the limit, and maintain the minimum temperature at least 50 degrees Fahrenheit above the catalyst's ignition temperature

For the following device:	You must meet the following operating limit:	And you must demonstrate continuous compliance with operating limits by:
3. Emission capture system	Submit monitoring plan to the Administrator that identifies operating parameters to be monitored according to § 63.3350(f).	Conduct monitoring according to the plan (§ 63.3350(f)(3)).

■ 16. Table 2 to subpart JJJJ is revised to read as follows:

Table 2 to Subpart JJJJ of Part 63—Applicability of 40 CFR part 63 General Provisions to Subpart JJJJ

You must comply with the applicable General Provisions requirements according to the following table:

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.1(a)(1)–(4)	Yes.	
§ 63.1(a)(5)	No	Reserved.
§ 63.1(a)(6)–(8)	Yes.	
§ 63.1(a)(9)	No	Reserved.
§ 63.1(a)(10)–(14)	Yes.	
§ 63.1(b)(1)	No	Subpart JJJJ specifies applicability.
§ 63.1(b)(2)–(3)	Yes.	
§ 63.1(c)(1)	Yes.	
§ 63.1(c)(2)	No	Area sources are not subject to emission standards of subpart JJJJ.
§ 63.1(c)(3)	No	Reserved.
§ 63.1(c)(4)	Yes.	
§ 63.1(c)(5)	Yes.	
§ 63.1(d)	No	Reserved.
§ 63.1(e)	Yes.	
§ 63.2	Yes	Additional definitions in subpart JJJJ.
§ 63.3(a)–(c)	Yes.	
§ 63.4(a)(1)–(3)	Yes.	
§ 63.4(a)(4)	No	Reserved.
§ 63.4(a)(5)	Yes.	
§ 63.4(b)–(c)	Yes.	
§ 63.5(a)(1)–(2)	Yes.	
§ 63.5(b)(1)	Yes.	
§ 63.5(b)(2)	No	Reserved.
§ 63.5(b)(3)–(6)	Yes.	
§ 63.5(c)	No	Reserved.
§ 63.5(d)	Yes.	
§ 63.5(e)	Yes.	
§ 63.5(f)	Yes.	
§ 63.6(a)	Yes	Applies only when capture and control system is used to comply with the standard.
§ 63.6(b)(1)–(5)	No	§ 63.3330 specifies compliance dates.
§ 63.6(b)(6)	No	Reserved.
§ 63.6(b)(7)	Yes.	
§ 63.6(c)(1)–(2)	Yes.	
§ 63.6(c)(3)–(4)	No	Reserved.
§ 63.6(c)(5)	Yes.	
§ 63.6(d)	No	Reserved.
§ 63.6(e)(1)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019, see § 63.3340(a) for general duty requirement. Yes, for all other affected sources before July 9, 2021, and No thereafter, see § 63.3340(a) for general duty requirement.
§ 63.6(e)(1)(ii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(e)(1)(iii)	Yes.	
§ 63.6(e)(2)	No	Reserved.
§ 63.6(e)(3)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(f)(1)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.6(f)(2)–(3)	Yes.	
§ 63.6(g)	Yes.	
§ 63.6(h)	No	Subpart JJJJ does not require continuous opacity monitoring systems (COMS).

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.6(i)(1)–(14)	Yes.	
§ 63.6(i)(15)	No	Reserved.
§ 63.6(i)(16)	Yes.	
§ 63.6(j)	Yes.	
§ 63.7(a)–(d)	Yes.	
§ 63.7(e)(1)	No	See § 63.3360(e)(2).
§ 63.7(e)(2)–(3)	Yes.	
§ 63.7(f)–(h)	Yes.	
§ 63.8(a)(1)–(2)	Yes.	
§ 63.8(a)(3)	No	Reserved.
§ 63.8(a)(4)	No	Subpart JJJJ does not have monitoring requirements for flares.
§ 63.8(b)	Yes.	
§ 63.8(c)(1) and § 63.8(c)(1)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019, see § 63.3340(a) for general duty requirement. Yes, for all other affected sources before July 9, 2021, and No thereafter, see § 63.3340(a) for general duty requirement.
§ 63.8(c)(1)(ii)	Yes	§ 63.8(c)(1)(ii) only applies if you use capture and control systems.
§ 63.8(c)(1)(iii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.8(c)(2)–(3)	Yes	See § 63.3350(e)(10)(iv) for temperature sensor validation procedures
§ 63.8(c)(4)	No	§ 63.3350 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	No	Subpart JJJJ does not require COMS.
§ 63.8(c)(6)–(8)	Yes	Provisions for COMS are not applicable.
§ 63.8(d)(1)–(2)	Yes	Refer to § 63.3350(e)(5) for CPMS quality control procedures to be included in the quality control program.
§ 63.8(d)(3)	No	§ 63.3350(e)(5) specifies the program of corrective action.
§ 63.8(e)–(f)	Yes	§ 63.8(e)(2) does not apply to CPMS. § 63.8(f)(6) only applies if you use CEMS.
§ 63.8(g)	Yes	Only applies if you use CEMS.
§ 63.9(a)	Yes.	
§ 63.9(b)(1)	Yes.	
§ 63.9(b)(2)	Yes	Except § 63.3400(b)(1) requires submittal of initial notification for existing affected sources no later than 1 year before compliance date.
§ 63.9(b)(3)–(5)	Yes.	
§ 63.9(c)–(e)	Yes.	
§ 63.9(f)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.9(g)	Yes	Provisions for COMS are not applicable.
§ 63.9(h)(1)–(3)	Yes.	
§ 63.9(h)(4)	No	Reserved.
§ 63.9(h)(5)–(6)	Yes.	
§ 63.9(i)	Yes.	
§ 63.9(j)	Yes.	
§ 63.10(a)	Yes.	
§ 63.10(b)(1)	Yes.	
§ 63.10(b)(2)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(b)(2)(ii)	No	See § 63.3410 for recordkeeping of relevant information.
§ 63.10(b)(2)(iii)	Yes	§ 63.10(b)(2)(iii) only applies if you use a capture and control system.
§ 63.10(b)(2)(iv)–(v)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(b)(2)(vi)–(xiv)	Yes.	
§ 63.10(b)(3)	Yes.	
§ 63.10(c)(1)	Yes.	
§ 63.10(c)(2)–(4)	No	Reserved.
§ 63.10(c)(5)–(8)	Yes.	
§ 63.10(c)(9)	No	Reserved.
§ 63.10(c)(10)–(14)	Yes.	
§ 63.10(c)(15)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter.
§ 63.10(d)(1)–(2)	Yes.	
§ 63.10(d)(3)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(d)(4)	Yes.	

General provisions reference	Applicable to subpart JJJJ	Explanation
§ 63.10(d)(5)(i)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter. See § 63.3400(c) for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Depends, see explanation	No, for new or reconstructed sources which commenced construction or reconstruction after September 19, 2019. Yes, for all other affected sources before July 9, 2021, and No thereafter. See § 63.3400(c) for malfunction reporting requirements.
§ 63.10(e)(1)–(2)	Yes	Provisions for COMS are not applicable.
§ 63.10(e)(3)–(4)	No	Subpart JJJJ does not require opacity and visible emissions observations.
§ 63.10(f)	Yes.	
§ 63.11	No	Subpart JJJJ does not specify use of flares for compliance.
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes	Subpart JJJJ includes provisions for alternative ASME and ASTM test methods that are incorporated by reference.
§ 63.15	Yes.	
§ 63.16	Yes.	

[FR Doc. 2020–05854 Filed 7–8–20; 8:45 am]

BILLING CODE 6560–50–P

Dated: October 8, 2020.

Anne L. Austin,

Principal Deputy Assistant Administrator.

[FR Doc. 2020–22947 Filed 11–2–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2020–0016; FRL–10015–94–OAR]

RIN 2060–AU25

National Emission Standards for Hazardous Air Pollutants: Phosphoric Acid Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes an amendment to the national emission standards for hazardous air pollutants (NESHAP) for the Phosphoric Acid Manufacturing source category. The final amendment is in response to a petition for rulemaking on the mercury emission limit for existing phosphate rock calciners that was finalized on August 19, 2015 (''2015 Rule''). That emission limit was based on the maximum achievable control technology (MACT) floor for existing sources. All six of the existing calciners used to set this MACT floor are located at the PCS Phosphate Company, Inc. (''PCS Phosphate'') facility in Aurora, North Carolina (''PCS Aurora''). PCS Phosphate asserted that data received since the rule's promulgation indicate that the MACT floor did not accurately reflect the average emission limitation achieved by the units used to set the standard. Based on these new data, the U.S. Environmental Protection Agency (EPA) is finalizing a revision of the mercury MACT floor for existing calciners.

DATES: This final rule is effective on November 3, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0016. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. With the exception of such material, publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. John Feather, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3052; fax number: (919) 541–4991 and email address: *feather.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

BTF beyond-the-floor
CAA Clean Air Act
CFR Code of Federal Regulations
CRA Congressional Review Act
HAP hazardous air pollutants(s)
ICR Information Collection Request
lb/yr pounds per year
MACT maximum achievable control technology
mg/dscm milligrams per dry standard cubic meter
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

Background information. On April 7, 2020, the EPA proposed revisions to the Phosphoric Acid Manufacturing NESHAP (85 FR 19412). In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Phosphoric Acid Manufacturing NESHAP,* Docket ID No. EPA–HQ–OAR–2020–0016.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
III. Summary of the Final Amendments
IV. Summary of Comments and Responses
V. Summary of Cost, Environmental, and Economic Impacts
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code
Phosphoric Acid Manufacturing ..	325312

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate

NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/phosphate-fertilizer-production-plants-and-phosphoric-acid.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by January 4, 2021. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

In the 2015 Rule, the EPA published final amendments to the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production NESHAP (80 FR 50386). As part of that action, we established MACT-based mercury emission limits for new and existing calciners within the Phosphoric Acid Manufacturing source category. These limits were based on emission data from the six identical calciners at the PCS Aurora facility. Because these six sources are of identical design and use the same fuel and feed, we determined that they should be treated as a single source for purposes of MACT floor development. As a result, we combined the emission test results for the different calciners into a single database that we used as the basis to set MACT floor emission limits for both new and existing sources. We also evaluated a beyond-the-floor (BTF) option for MACT for existing calciners but did not select the BTF option as MACT because we determined that the economic impacts to the facility would not be reasonable. We did set a BTF limit for new calciners.

Following promulgation of the 2015 Rule, PCS Phosphate petitioned for reconsideration, pursuant to section 307(d)(7)(B) of the CAA, on October 16, 2015. The EPA granted the petition for reconsideration of the issues presented at the time relating to the compliance schedules, monitoring, and compliance options for air oxidation reactors and scrubbers. This reconsideration was finalized on September 28, 2017 (82 FR 45193). However, subsequent to this petition for reconsideration, compliance testing of the calciners for mercury emissions in 2016 showed that three calciners at the Aurora facility exceeded the MACT limit, with the three other calciners near the limit. For reference, the mean calciner compliance emissions concentration in 2016 was 0.143 milligrams per dry standard cubic meter (mg/dscm) at 3-percent oxygen, higher than the MACT limit of 0.14 mg/dscm at 3-percent oxygen. The mean of the 2016 compliance emissions concentrations was 44 percent higher than the mean of the data from the 2010 and 2014 Information Collection Requests (ICRs) that were used to develop the 2015 Rule's emission limit. On May 10, 2016, PCS Phosphate submitted a letter to the EPA requesting a revision to the calciner mercury MACT floor standard. On September 6, 2016, PCS Phosphate added the calciner mercury limit to its earlier petition for reconsideration. This additional request was not raised with reasonable specificity or within 60 days of the publication of the 2015 Rule, so the mercury MACT floor issue was not included in the EPA's 2017 reconsideration of the 2015 Rule. However, on the basis of the test data presented, the EPA was convinced there was justification to review the mercury calciner limit and include new emissions data in analysis of that limit.

Because of our evaluation of the emission data, as explained in more detail in the proposal and supporting documents (Docket ID No. EPA–HQ–OAR–2020–0016), the EPA proposed to revise the mercury emission standard for existing calciners. We received public comments on the proposed rule amendment from six parties. Copies of all comments submitted are available electronically through the docket. In this document, the EPA is taking final action on this revision as proposed.

III. Summary of the Final Amendments

The EPA is amending 40 CFR part 63, subpart AA. This amendment is in response to a petition for a rulemaking to amend the 2015 Rule's calciner mercury MACT floor emission limit, submitted by PCS Phosphate to the Agency on September 6, 2016. The petition is available in the docket for this action (Docket Item No. EPA–HQ–OAR–2020–0016–0007). The EPA is increasing the MACT floor-based mercury emission limit for existing calciners from 0.14 mg/dscm at 3-percent oxygen to 0.23 mg/dscm at 3-percent oxygen. Table 1 to Subpart AA of Part 63—Existing Source Emission Limits, is reproduced in its entirety at the end of this preamble for the sake of clarity. The EPA is amending only the existing source mercury limit for phosphate rock calciners, along with references to its accompanying compliance date. This amendment does not impact any other aspect of the table or regulatory text. The EPA is not amending the mercury emission limit for new sources.

IV. Summary of Comments and Responses

The following is a summary of the significant comments received on the proposed amendments to mercury emission standards for existing phosphate rock calciners and our responses to these comments.

Comment: Several commenters expressed concern that the EPA did not sufficiently consider the risk effects, particularly related to inhalation, of mercury emissions associated with a

less stringent standard, and whether stricter limits may be required.

Response: In its recent decision in *Citizens for Pennsylvania's Future, et al.,* v. *Wheeler,* 19–cv–02004–VC (N.D. Cal. 2020), the United States District Court for the Northern District of California affirmed that 42 U.S.C. 7412(f)(2)(A) does not impose a mandatory duty for the EPA to revisit risk assessments when we revise technology-based standards. Moreover, in this case a reassessment of the risks was unnecessary given the conservativism in our risk analysis completed in 2015. The risk assessment supporting the 2015 Rule ("Residual Risk Assessment for the Phosphate Fertilizer and Phosphoric Acid Source Categories in Support of the July 2015 Risk and Technology Review Final Rule," Docket Item No. EPA–HQ–OAR–2012–0522–0081) evaluated risks due to emissions of hazardous air pollutants (HAP) from calciners, including human health effects from chronic and acute inhalation exposure to mercury emissions. The 2015 Rule's risk assessment conservatively modeled phosphoric acid calciner mercury emissions of 352 pounds per year (lb/yr), which is considerably greater than the 264 lb/yr that we estimate will be emitted in compliance with the revised mercury emission limit. The calciner mercury emission values used to model risk were overestimates because they were based on inaccurate production values and because of the different test method used to derive the emissions estimates used in the risk assessment. As described in the 2015 Rule's emission data memorandum ("Emissions Data Used in Residual Risk Modeling: Phosphoric Acid and Phosphate Fertilizer Production Source Categories," Docket Item No. EPA–HQ–OAR–2012–0522–0011), an inaccurate projection was made of calciner emissions based on the annual production value and emissions of the one calciner tested in the 2010 ICR. This overestimate applied to all calciner HAP emissions used for modeling purposes, including mercury values. The BTF memorandum ("Beyond-the-Floor Analysis for Phosphate Rock Calciners at Phosphoric Acid Manufacturing Plants—Final Rule," Docket Item No. EPA–HQ–OAR–2012–0522–0082) further explained that the risk assessment used speciated mercury data obtained from the Ontario-Hydro test method. These data provided information on the relative prevalence of divalent mercury compared to elemental mercury, but also showed higher emissions than those obtained using EPA Method 30B. EPA Method 30B is the method used to determine facility compliance and is the basis of the calciner mercury estimates in this action and the 2015 Rule. We originally calculated allowable emissions by scaling measured emissions to the permitted design capacity, so increased operational throughputs would not change that evaluation. Using the conservative mercury emission estimates from our 2015 Rule's risk assessment, we still determined that the risk posed by emissions from the category, including mercury calciner emissions, was acceptable, that the standards provided an ample margin of safety to protect public health, and that no additional standards were necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. These conclusions have not changed.

Comment: One commenter stated that the EPA did not evaluate increased emissions of HAP other than mercury, such as lead, and whether calcination of higher mercury materials may affect lead emissions. The commenter feels these data should be included in the risk evaluation.

Response: The EPA is unaware of any evidence of a correlation between mercury and lead emissions from sources in this source category. This revision of the mercury emission limit for existing calciners is based on additional data that became available for analysis. Emissions of other HAP, such as lead, will not be changed by this action. No operational changes are expected as a result of this action. As discussed in the previous response, any changes in calciner operations since relevant data were originally gathered do not change the determinations made based on the 2015 Rule's risk assessment. This action does not affect emission limits for non-mercury HAP surrogates, which remain subject to current compliance requirements and are out of the scope of this action.

Comment: One commenter claimed that test reports for EPA Method 30B data were not available and that this precluded quality assurance or proper evaluation of analyses by the facility or the EPA.

Response: Compliance test reports are publicly available through WebFire (*https://cfpub.epa.gov/webfire/*). In addition, the mercury compliance test reports, along with the mercury study carried out as part of the consent order, have been added to the docket. We verified that the reported information was the same as that used to calculate the revised MACT floor. These methods and reports have been validated and have undergone quality assurance. Extensive data summaries used by the EPA to analyze the MACT floor were posted in the docket for the proposed rule and were sufficient to allow proper evaluation of relevant analyses.

Comment: One commenter supported the proposed decisions to revise the 2015 calciner mercury MACT floor standard and not pursue a BTF standard. The commenter agreed that the risk assessment shows add-on controls are not required to protect human health or the environment.

Response: We acknowledge the commenter's support of the EPA's proposed decisions.

Comment: One commenter asserted that the EPA did not consider mercury control by raw material selection and that the feasibility of determining the spatial variability of mercury concentration in phosphate rock resources has been demonstrated. Another commenter provided information which demonstrates that ore-switching is both technically infeasible and inconsistent with current permit requirements.

Response: The MACT floor for calciners was established pursuant to CAA section 112(d)(3) as the average emission limitation achieved by a single facility that uses a single source of raw material, which is mined on-site. Once the MACT floor has been established, raw material selection would be a BTF control option, discussed in CAA section 112(d)(2). In this case, raw material selection is not a feasible option to implement, as is supported by statements from another commenter. The EPA's site visit report for PCS Aurora (Docket Item No. EPA–HQ–OAR–2020–0016–0008) describes that this facility operates by processing phosphate rock that was mined on-site. The facility is constrained by their mining permit to mine certain areas of the phosphate rock in a certain order. In addition, the mining process itself inherently results in the ore being thoroughly mixed. Low-mercury phosphate rock could not be selectively targeted for mining and calciner processing. Material substitution would not be a feasible means to reduce HAP emissions.

V. Summary of Cost, Environmental, and Economic Impacts

Only the PCS Aurora facility and its six calciners are expected to be affected by the change to the existing calciner MACT floor emission limit for mercury finalized in this action. We are revising the MACT floor based on new data from PCS Phosphate for the existing calciners. Since neither this amendment

nor the 2015 Rule anticipated a need to install controls, we do not anticipate a change in actual mercury emissions as a result of this action. Currently, we estimate total actual emissions of mercury from all six calciners to be 264 lb/yr, less than the 352 lb/yr conservatively estimated for modeling purposes in the 2015 Rule, so our conclusions related to human health risk are unchanged and we continue to anticipate no adverse environmental impact. The 2015 Rule set a mercury limit of 0.14 mg/dscm at 3-percent oxygen that the existing calciners could not achieve under normal operations. Without this amendment, additional controls such as an activated carbon injection system would be necessary to comply with the 2015 Rule's standard. The revised standard that does not require installation of those controls represents a cost-savings for the facility, since those expenditures are no longer expected to be necessary. We estimate that installing new activated carbon injection control equipment to meet the 2015 Rule's calciner mercury standard would have resulted in a present value cost of approximately $26 million (2017 dollars) discounted at 7 percent to 2019 over a 5-year analytical period. Therefore, this action will result in a total cost savings of $26 million over the analytical period. For more detail, see the economic impact analysis memorandum in the docket, unchanged since the proposal (Docket Item No. EPA–HQ–OAR–2020–0016–0013).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0361. With this action, the EPA is finalizing amendments to the 40 CFR part 63, subpart AA, rule language narrowly concerning the existing calciner mercury MACT floor. Therefore, the EPA believes that there are no changes to the information collection requirements of the 2015 Rule. The information collection estimate of projected cost and hour burden has not been revised due to any impacts from this action.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The single facility subject to the existing calciner mercury MACT floor requirements of 40 CFR part 63, subpart AA, is not a small entity.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The environmental justice finding in the 2015 Rule remains relevant in this action, which is finalizing amendments to the 40 CFR part 63, subpart AA, existing rule language narrowly concerning the calciner mercury MACT floor.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants

■ 2. In § 63.602, revise paragraph (a)(2)(ii) to read as follows:

§ 63.602 Standards and compliance dates.

(a) * * *

(2) * * *

(ii) You must comply with the mercury emission limit specified in Table 1 to this subpart beginning on November 3, 2020.

* * * * *

■ 3. Revise table 1 to subpart AA of part 63 to read as follows:

TABLE 1 TO SUBPART AA OF PART 63—EXISTING SOURCE EMISSION LIMITS [a] [b]

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.020 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Process Line [c]	0.010 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Process Line with a Submerged Combustion Process.	0.20 lb/ton of equivalent P_2O_5 feed.		
Phosphate Rock Dryer		0.2150 lb/ton of phosphate rock feed.	
Phosphate Rock Calciner	9.0E–04 lb/ton of rock feed [d]	0.181 g/dscm	0.23 mg/dscm corrected to 3-percent oxygen [e]

[a] The existing source compliance data is June 10, 2002, except as noted.
[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in § 63.602(f).
[c] Beginning on August 19, 2018, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.
[d] Compliance date is August 19, 2015.
[e] Compliance date November 3, 2020.

[FR Doc. 2020–24280 Filed 11–2–20; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0218 and EPA–HQ–OPP–2013–0219; FRL–10015–39]

RIN 2070–ZA16

Dipropylene Glycol and Triethylene Glycol; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is exempting residues of the antimicrobial pesticide ingredients dipropylene glycol and triethylene glycol from the requirement of a tolerance when used on or applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils. The Agency is finalizing this rule on its own initiative under the Federal Food, Drug, and Cosmetic Act (FFDCA) to address residues identified as part of the Agency's registration review program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: This regulation is effective November 3, 2020. Objections and requests for hearings must be received on or before January 4, 2021 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The dockets for this action, identified by docket identification (ID) numbers EPA–HQ–OPP–2013–0219 and EPA–HQ–OPP–2013–0218, are available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *ADFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are a pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111), *e.g.,* agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.,* cattle ranchers and farmers, dairy cattle farmers, livestock farmers.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0243; FRL–10009–65–OAR]

RIN 2060–AO66

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Plywood and Composite Wood Products (PCWP) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the EPA is taking final action addressing periods of startup, shutdown and malfunction (SSM); adding electronic reporting; adding repeat emissions testing; and making technical and editorial changes. These final amendments include no revisions to the numerical emission limits in the rule based on the RTR. While the amendments do not result in reductions of emissions of hazardous air pollutants (HAP), this action results in improved monitoring, compliance, and implementation of the rule.

DATES: This final rule is effective on August 13, 2020. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 13, 2020. The incorporation by reference of certain other publications listed in the rule was approved by the Director of the Federal Register as of February 16, 2006.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0243. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Katie Hanks, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2159; fax number: (919) 541–0516; and email address: *hanks.katie@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Multiple acronyms and terms are used in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring systems
CFR Code of Federal Regulations
CMS continuous monitoring systems
EAV equivalent annualized value
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutants(s)
HQ hazard quotient
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PCWP Plywood and Composite Wood Products
PDF portable document format
PRA Paperwork Reduction Act
PV present value
RATA relative accuracy test audit
RCO regenerative catalytic oxidizer
REL recommended exposure limit
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTC Response to Comments
RTO regenerative thermal oxidizer
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act

Background information. On September 6, 2019, the EPA proposed revisions to the PCWP NESHAP based on our RTR. See 84 FR 47074. In this action, the EPA is finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rulemaking and provide summaries of our responses in this preamble. A summary of all public comments on the proposal and the EPA's specific responses to those comments is available in the Response to Comments (RTC) document, *National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products (40 CFR part 63, subpart DDDD) Residual Risk and Technology Review, Final Amendments, Responses to Public Comments on September 6, 2019 Proposal,* Docket ID No. EPA–HQ–OAR–2016–0243. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the PCWP source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the PCWP source category in our September 6, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the PCWP source category?

B. What are the final rule amendments based on the technology review for the PCWP source category?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the PCWP source category?
A. Residual Risk Review for the PCWP Source Category
B. Technology Review for the PCWP Source Category
C. SSM Provisions
D. Electronic Reporting
E. Repeat Emissions Testing
F. Biofilter Bed Temperature
G. Thermocouple Calibration
H. Non-HAP Coating Definition
I. Technical and Editorial Changes
J. Compliance Dates
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Cost
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code
National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.	321999, 321211, 321212, 321219, 321213.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/plywood-and-composite-wood-products-manufacture-national-emission.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by October 13, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources,

these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f) and the EPA may readopt the MACT standards as residual risk standards.[1] For more information on the statutory authority for this rule, see 84 FR 47074 (September 6, 2019).

B. What is the PCWP source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA originally promulgated the PCWP NESHAP on July 30, 2004. The standards are codified at 40 CFR part 63, subpart DDDD. The PCWP industry consists of facilities engaged in the production of PCWP and/or kiln-dried lumber. Plywood and composite wood products are manufactured by bonding wood material (fibers, particles, strands, *etc.*) or agricultural fiber, generally with resin under heat and pressure, to form a structural panel or engineered wood product. PCWP manufacturing facilities also include facilities that manufacture dry veneer and lumber kilns located at any facility. PCWP include (but are not limited to) plywood, veneer, particleboard, oriented strand board (OSB), hardboard, fiberboard, medium density fiberboard, laminated strand lumber, laminated veneer lumber, wood I-joists, kiln-dried lumber, and glue-laminated beams. As noted in the preamble to the proposed amendments, the PCWP source category covered by this MACT standard includes 230 major source facilities: 93 PCWP facilities, 121 lumber mills, and 16 facilities that produce both PCWP and lumber.

The affected source under the PCWP NESHAP is the collection of dryers, refiners, blenders, formers, presses, board coolers, and other process units associated with the manufacturing of PCWP. The NESHAP contains several compliance options for process units subject to the standards: (1) Installation and use of emissions control systems with an efficiency of at least 90 percent; (2) production-based limits that restrict HAP emissions per unit of product; and (3) emissions averaging that allows control of emissions from a group of sources collectively (at existing affected sources). These compliance options apply for the following process units: Fiberboard mat dryer heated zones (at new affected sources); green rotary dryers; hardboard ovens; press predryers (at new affected sources); pressurized refiners; primary tube dryers; secondary tube dryers; reconstituted wood product board coolers (at new affected sources); reconstituted wood product presses; softwood veneer dryer heated zones; rotary strand dryers; and conveyor strand dryers (zone one at existing affected sources, and zones one and two at new affected sources). In addition, the PCWP NESHAP includes work practice standards for dry rotary dryers, hardwood veneer dryers, softwood veneer dryers, veneer redryers, and group 1 miscellaneous coating operations (defined in 40 CFR 63.2292).

C. What changes did we propose for the PCWP source category in our September 6, 2019, proposal?

On September 6, 2019, the EPA published a proposed rulemaking in the **Federal Register** for the PCWP NESHAP, 40 CFR part 63, subpart DDDD, that took into consideration the RTR analyses. In the proposed rulemaking, we proposed revisions to the SSM provisions for the NESHAP in order to ensure that they are consistent with the decision of the Court in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which vacated two provisions in EPA's 40 CFR part 63, subpart A—General Provisions, that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM: 40 CFR 63.6(f)(1) and (h)(1). We also proposed various other changes, including addition of electronic reporting requirements, addition of repeat emissions testing requirements, revisions to parameter monitoring requirements, and various technical and editorial changes.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the PCWP source category. This action also finalizes other changes to the NESHAP, including SSM provisions, electronic reporting, additional emissions testing requirements, and technical and editorial changes.

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

A. What are the final rule amendments based on the risk review for the PCWP source category?

The EPA proposed no changes to the PCWP NESHAP based on the risk review conducted pursuant to CAA section 112(f). We are finalizing our proposed determination that risks from the PCWP source category are acceptable, considering all of the health information and factors evaluated, and also considering risk estimation uncertainty. We are also finalizing our proposed determination that revisions to the current standards are not necessary to reduce risk to an acceptable level, to provide an ample margin of safety to protect public health, or to prevent an adverse environmental effect. As discussed further in section IV.A of this preamble, the EPA reviewed public comments and data revisions submitted during the public comment period but none of the information received affected our determinations. Therefore, we are not requiring additional controls in order to reduce risks and, thus, are not making any revisions to the existing standards under CAA section 112(f)(2). Instead, we are readopting the existing standards under CAA section 112(f)(2), while making other modifications under other authorities unrelated to risk.

B. What are the final rule amendments based on the technology review for the PCWP source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. In the proposal, the EPA noted a development in resin systems used to produce PCWP at some facilities but found that facilities generally have not altered their HAP emission control strategies to date as a result of resin changes and that it is not necessary, or supported based on available data, at this time, to amend the current standards. The EPA considered comments received during the public comment period regarding our technology review, however, these comments contained no new data or other information that affected our determinations. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6). Section IV.B of this preamble provides further details on our conclusion with respect to the technology review.

C. What are the final rule amendments addressing emissions during periods of SSM?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

The EPA has eliminated the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA,* the EPA has established standards in this rule that apply at all times. The standards that apply during normal operation have been extended to apply at all times including SSM in most instances. However, in this final rule, the EPA has established work practice standards for specific types of startup and shutdown events as described in section IV.C of this preamble. The EPA has also revised Table 10 of this rule (the General Provisions applicability table) in several respects as is explained in more detail in section IV.C of this preamble. For example, we have eliminated the incorporation of the General Provisions' requirement that sources develop SSM plans. We have also eliminated or revised certain recordkeeping and reporting requirements that are related to the SSM exemption as described in detail in the proposed rulemaking and summarized again in section IV.C of this preamble.

D. What other changes have been made to the NESHAP?

Other changes to the NESHAP include:

1. Electronic reporting. As discussed at proposal, the EPA is finalizing amendments to the reporting requirements in the rule to require electronic reporting for notifications of compliance status, compliance test reports, and semiannual reports. Electronic reporting is discussed further in section IV.D of this preamble.

2. Repeat emissions testing. As discussed at proposal, the EPA is finalizing amendments to Table 7 to subpart DDDD of part 63 to require repeat testing every 5 years for process units controlled with control devices other than biofilters. The first of the 5-year repeat tests will be required within 3 years of the effective date of the final amendments. Repeat emissions testing is discussed further in section IV.E of this preamble.

3. Revisions to parameter monitoring requirements. As discussed at proposal, the EPA is finalizing amendments to biofilter bed temperature provisions in 40 CFR 63.2262(m)(1) and the thermocouple calibration requirements in 40 CFR 63.2269. The biofilter bed temperature provisions are discussed further in section IV.F of this preamble and the thermocouple calibration requirements are discussed further in section IV.G of this preamble.

4. Revisions to the non-HAP coating definition. The EPA is finalizing amendments to the non-HAP coating definition in 40 CFR 63.2292 with changes from the proposed revision. The non-HAP coating definition is discussed further in section IV.H of this preamble.

5. Technical and editorial changes. The EPA is finalizing technical and editorial changes, as discussed further in section IV.I of this preamble.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on August 13, 2020. The compliance date of the rule amendments for existing affected sources and other affected sources that commenced construction or reconstruction on or before September 6, 2019, is August 13, 2021. Affected sources that commenced construction or reconstruction after September 6, 2019, are new sources. New sources must comply with all of the standards immediately upon the effective date of the standard, August 13, 2020, or upon startup, whichever is later. All existing affected sources will have to continue to meet the current requirements of the NESHAP until the applicable compliance date of the amended rule.

Section IV.D of this preamble discusses electronic reporting and a semiannual reporting template that facilities must use within 1 year after it is posted in the EPA's Compliance and Emissions Data Reporting Interface (CEDRI). In addition, the EPA is finalizing new requirements to conduct repeat performance testing every 5 years for facilities using an add-on control system other than a biofilter (see section IV.E of this preamble). The first of the repeat performance tests must be conducted within 3 years after August 13, 2020, or within 60 months following the previous performance test, whichever is later.

IV. What is the rationale for our final decisions and amendments for the PCWP source category?

For each issue, this section provides a description of what was proposed and what is being finalized for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. Comment summaries for all comments and the EPA's specific responses can be found in the RTC document, available in Docket ID No. EPA–HQ–OAR–2016–0243.

A. Residual Risk Review for the PCWP Source Category

1. What did we propose pursuant to CAA section 112(f) for the PCWP source category?

Pursuant to CAA section 112(f), the EPA conducted a risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 6, 2019, proposed rulemaking for the PCWP source category (84 FR 47074). The results of the risk assessment are presented briefly in Table 2 of this preamble and in the risk report titled *Residual Risk Assessment for the Plywood and Composite Wood Products Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* and sections III and IV of the proposal preamble (84 FR 47074, September 6, 2019) available in the docket for this action.

TABLE 2—INHALATION RISK ASSESSMENT SUMMARY FOR PLYWOOD AND COMPOSITE WOOD PRODUCTS SOURCE CATEGORY [1]

Number of facilities [2]	Maximum individual cancer risk (in 1 million) [3]		Population at increased risk of cancer ≥ 1-in-1 million		Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [4]		Maximum screening acute noncancer HQ [5]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Based on actual emissions level
233	30	30	204,000	230,000	0.03	0.03	0.8	0.8	4 (REL) 0.2 (AEGL–1)

[1] Based on actual and allowable emissions.
[2] Number of facilities evaluated in the risk assessment. Includes 230 operating facilities subject to 40 CFR part 63, subpart DDDD, plus three existing facilities that are currently closed but maintain active operating permits.
[3] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[4] Maximum target organ-specific hazard index (TOSHI). The target organ with the highest TOSHI for the PCWP source category is the respiratory system.
[5] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. The acute HQ values shown use the lowest available acute threshold value, which in most cases is the recommended exposure limit (REL). When an HQ exceeds 1, the EPA also shows the HQ using the next lowest available acute dose-response value.

For the risk assessment conducted at proposal, the EPA estimated risks based on actual and allowable emissions from the PCWP source category. The results for the PCWP source category indicated that both the actual and allowable inhalation cancer risks to the individual most exposed are below the presumptive limit of acceptability of 100-in-1 million. The residual risk assessment for the PCWP category estimated cancer incidence rate at 0.03 cases per year (or one case every 33 years) based on both source category actual and allowable emissions. The estimated inhalation cancer risk to the individual most exposed to actual and allowable emissions from the source category was 30-in-1 million. The assessment showed that approximately 204,000 people faced an increased cancer risk equal to or above 1-in-1 million from source category actual emissions from 170 facilities. The number of people exposed to a cancer risk greater than 10-in-1 million from source category actual emissions is 650 people. The maximum chronic noncancer TOSHI due to inhalation exposures was less than 1 (0.8) for actual and allowable emissions from the source category. The results of the acute non-cancer refined analysis showed maximum acute HQs of 4 for acrolein and 2 for formaldehyde emissions based on the acute reference exposure level. Maximum cancer risk due to ingestion exposures estimated using health-protective risk screening assumptions are below 6-in-1 million for the Tier 2 fisher scenario and below 40-in-1 million for the Tier 2 rural gardener exposure scenario.[2] Considering all the health risk information and factors and the uncertainties discussed in the preamble to the proposed amendments (84 FR 47074, September 6, 2019), the EPA proposed that the risks posed by emissions from the PCWP source category are acceptable after implementation of the existing MACT standards.

As directed by CAA section 112(f)(2), the EPA also conducted an analysis to determine if the current emission standards provide an ample margin of safety to protect public health. Under the ample margin of safety analysis, the EPA considers all health factors evaluated in the risk assessment and evaluates the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied to this source category to further reduce the risks (or potential risks) due to emissions of HAP identified in our risk assessment. The EPA did not identify methods for further reducing HAP emissions from the PCWP source category that would achieve meaningful risk reductions. Therefore, the EPA proposed that the current PCWP standards provide an ample margin of safety to protect public health and revision of the promulgated standards is not required. The EPA also concluded that an adverse environmental effect as a result of HAP emissions from this source category is not expected and, therefore, proposed that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The results of the EPA's residual risk analysis conducted according to CAA section 112(f)(2) were discussed in the preamble to the proposed rulemaking (84 FR 47074, September 6, 2019), in the risk report for the proposed rulemaking titled *Residual Risk Assessment for the Plywood and Composite Wood Products Source Category in Support of the 2019 Risk*

[2] As explained in the preamble for the proposed rulemaking, these multipathway risk estimates would be further reduced with Tier 3 screening.

and Technology Review Proposed Rule, Docket Item No. EPA–HQ–OAR–2016–0243–0179, and in the risk report for the final rule titled *Residual Risk Assessment for the Plywood and Composite Wood Products Source Category in Support of the 2019 Risk and Technology Review Final Rule,* in the docket for this action. The risk report for the final rule is unchanged from the risk report prepared for the proposed rulemaking.

2. How did the risk review change for the PCWP source category?

The EPA has not changed any aspect of the risk assessment since the September 2019 proposal for the PCWP source category.

3. What key comments did we receive on the risk review, and what are our responses?

The EPA received several comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2). Generally, the commenters disagreeing with the risk review misunderstood the type of data used for the development of the risk review or suggested changes to the underlying risk assessment methodology. Some commenters noted the conservative nature of the underlying residual risk methodology. Commenters also submitted data revisions for 23 of the 233 modeled facilities. After reviewing the inventory revisions, the EPA concluded that 21 of the revisions would serve only to reduce modeled risk through reduced emissions or improved dispersion inputs. Further, the EPA concluded that neither of the two remaining inventory revisions would increase the maximum modeled risk for the PCWP source category or change our conclusions regarding risk acceptability or ample margin of safety. See the memorandum, *Review of Plywood and Composite Wood Products Emissions Inventory Revisions,* in the docket for this action for details on the inventory revisions submitted. After review of the comments and information submitted, we determined that no changes to the proposed residual risk assessment were necessary. The comments and our specific responses can be found in the RTC document, which is available in the docket for this action, Docket ID No. EPA–HQ–OAR–2016–0243.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). The EPA weighs all health risk factors in our risk acceptability determination, including the cancer maximum individual risk (MIR), cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rulemaking, the EPA determined that the risks from the PCWP source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, the EPA is not revising the PCWP NESHAP (40 CFR part 63, subpart DDDD) to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and the EPA is readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the PCWP Source Category

The EPA's technology review focused on identifying developments in practices, processes, and control technologies for process units subject to standards under the NESHAP that have occurred since 2004 when emission standards were promulgated for the PCWP source category. The following process units were included in our review: Green rotary dryers, hardboard ovens, pressurized refiners, primary tube dryers, reconstituted wood product presses, softwood veneer dryer heated zones, rotary strand dryers, secondary tube dryers, conveyor strand dryers, fiberboard mat dryers, press predryers, and reconstituted wood product board coolers. The technological basis for the promulgated PCWP NESHAP was use of incineration-based or biofilter add-on controls to reduce HAP emissions. Incineration-based controls include regenerative thermal oxidizers (RTOs), regenerative catalytic oxidizers (RCOs), and incineration of process exhaust in an onsite combustion unit (referred to as "process incineration"). In addition, the PCWP NESHAP contains production-based compliance options (PBCO) for process units with low emissions due to pollution prevention measures inherent in their process, an emissions averaging compliance option, and work practice requirements for selected process units. In the proposal, the EPA noted a development in resin systems used to produce PCWP at some facilities but found that facilities generally have not altered their HAP emission control strategies to date as a result of resin changes and that it is not necessary, or supported, based on available data, at this time, to amend the current standards. The EPA proposed that no revisions to the PCWP NESHAP are necessary pursuant to CAA section 112(d)(6).

The EPA received comments supporting and opposing our proposed determination from the technology review that no revisions to the standards are necessary under CAA section 112(d)(6). Several commenters agreed with the EPA's decision not to revise the current standards pursuant to CAA section 112(d)(6). Conversely, another commenter opposed our determination not to revise the standards and stated that the EPA failed to satisfy the CAA because it did not set emission standards for currently unrestricted HAP (such as emissions from the PCWP process units not currently subject to emissions limits) and regulating these emissions is "necessary" under the CAA. The commenter asserted that the EPA must review and follow the CAA and existing case law to ensure it sets a numerical limit for every regulated HAP in order to satisfy CAA sections 112(d)(2), (3), and (6). The commenter further asserted that the EPA must update standards when a development is identified, such as the use of lower HAP resins.

In response to the comments, the EPA maintains that our CAA section 112(d)(6) review of developments in the processes, practices, and controls applied to sources regulated under 40 CFR part 63, subpart DDDD, was complete. The technology review was based on responses to an Information Collection Request (ICR) conducted under CAA section 114, requiring a mandatory response. In addition to ICR data provided by respondents, the EPA requested and reviewed other information from sources to determine if there have been developments in practices, processes, or control technologies by PCWP facilities, as described in section 3 of the RTC document. The technology review was documented in the memorandum, *Technology Review for the Plywood and*

Composite Wood Products NESHAP, Docket Item No. EPA–HQ–OAR–2016–0243–0189.

Section 3 of the RTC document contains full responses to the comments received. Regarding the comment that the technology review did not address the unregulated sources, the EPA acknowledged in the preamble to the proposed rulemaking that there are unregulated sources with no-control MACT determinations, and we stated our plans to address those units in a separate action subsequent to the RTR at 84 FR 47077–47078. See section 9 of the RTC document for further discussion of our position regarding our obligations under CAA section 112(d)(6) with respect to unregulated sources.[3]

Overall, the EPA's review of the developments in technology for the process units subject to the PCWP NESHAP did not reveal any changes that require revisions to the emission standards under CAA section 112(d)(6). As discussed in the first paragraph in this section of the preamble, the PCWP rule was promulgated with multiple options for reducing HAP emissions to demonstrate compliance with the standard. The EPA found that facilities are using each type of control system or pollution prevention measure (such as lower-HAP resins) that was anticipated when the PCWP emissions standards were promulgated. The EPA did not identify any developments in practices, processes, or control technologies for the regulated units beyond those accounted for in the originally promulgated PCWP NESHAP.

Regarding lower-HAP resins, for the proposal, the EPA characterized changes in the type of resin systems used in the particleboard, MDF, and hardwood plywood segments of the PCWP industry due to the formaldehyde standards limiting emissions from these products[4] as a "development" within the context of CAA section 112(d)(6). The EPA explained in the proposal that as facilities conduct repeat testing, they may find that the inlet concentration of formaldehyde and methanol from their pressing operations has dropped if they are now using a different, lower-HAP resin system to comply with the California Air Resources Board (CARB) and Toxic Substances Control Act (TSCA) standards. The decrease in inlet concentration may allow for future use of the PBCO without an add-on control device, providing an existing compliance option in addition to the current add-on control device compliance option. The EPA also explained that while the CARB and TSCA standards are a "development" within the context of CAA section 112(d)(6), these rules do not necessitate revision of the previously-promulgated PCWP emission standards because the promulgated PCWP emission standards already include the PBCO provisions for pollution prevention measures such as lower-HAP resins. The EPA disagrees that because resin changes made by some mills were noted as a development in the technology review that this necessitates revisions to the standards without regard to how the development is already addressed within the previously-promulgated emission standards, to how it relates to control technologies used in the industry, or other relevant factors. For the PCWP source category, the EPA did not identify information suggesting the resin system changes have significantly altered the type of process units or HAP pollution control technologies used in the PCWP industry to date or have led to processes or practices that have not been accounted for in the promulgated PCWP NESHAP compliance options. As explained further in Section 3 of the RTC document, at present, limited HAP emissions data are available to compare PCWP manufacturing process emissions before and after implementation of resin changes to meet the product formaldehyde standards. Facilities made a variety of different resin system changes (if needed for their specific products) in response to the CARB and TSCA rules, and, therefore, no single broadly-applicable approach feasible for all mills was identified. The different resin system changes facilities made, coupled with the limited available HAP emissions data, ongoing use of add-on control technologies following resin system changes, and availability of PBCO in the PCWP NESHAP do not support revising the PCWP NESHAP. Therefore, the EPA concluded it is not, at this time, necessary or supportable under this CAA section 112(d)(6) review to change the promulgated PCWP NESHAP as a result of resin changes facilities made to meet the CARB and TSCA rules. If additional emissions information on resin changes or other changes made by facilities becomes available and indicates updates need to be made to standards in future technology reviews, the EPA will evaluate that information at that time. In summary, the EPA proposed, and is finalizing the conclusion that no revisions to the PCWP NESHAP are necessary pursuant to CAA section 112(d)(6). All amendments being made to the final NESHAP are for reasons other than to reflect developments under CAA section 112(d)(6).

C. SSM Provisions

Consistent with the 2008 decision in *Sierra Club* v. *EPA,* the EPA proposed eliminating the SSM exemption in this rule and instead proposed that the same standards that apply during normal operation also apply during SSM, except during specific periods of startup and shutdown as described in section IV.C.2 of this preamble. Additionally, the EPA proposed several revisions to Table 10 (the General Provisions applicability table), proposed eliminating the incorporation of the General Provisions' requirement that the source develop an SSM plan, and proposed eliminating and revising certain recordkeeping and reporting requirements related to the SSM exemption, all of which are further described in section IV.C.4 of this preamble.

1. Elimination of the SSM Exemption

As noted in section III.C of this preamble, in its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. Consistent with the *Sierra Club* decision, the EPA proposed eliminating the SSM exemption in this rule from 40 CFR 63.2250 and to remove the incorporation of 40 CFR 63.6(f)(1). (40

[3] On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN* v. *EPA,* 955 F. 3d. 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

[4] In 2008, the CARB finalized an Airborne Toxic Control Measure (ATCM) to reduce formaldehyde emissions from hardwood plywood, MDF, and particleboard. Consistent with the CARB ATCM, in July 2010, Congress passed the Formaldehyde Standards for Composite Wood Products Act, as title VI of TSCA, [15 U.S.C. 2697], requiring the EPA to promulgate a national rule. The EPA finalized the TSCA rule, Formaldehyde Emission Standards for Composite Wood Products, on December 12, 2016 (81 FR 89674), and finalized an implementation rule on February 7, 2018 (83 FR 5340). Compliance with the TSCA rule was required by December 2018. The CARB ATCM and the rule to implement TSCA title VI emphasize the use of low emission resins, including ultra-low-emitting formaldehyde and no added formaldehyde resin systems.

CFR 63.6(h)(1) was not applicable to this NESHAP.)

The EPA received comments supporting and opposing our proposal to eliminate the SSM exemption in the rule. Commenters opposed to eliminating the exemption stated that neither the CAA nor judicial precedent requires the EPA to delete the SSM provisions. According to these commenters, the best-performing facilities that are the basis for the MACT floor experience SSM events, and so it is appropriate for the EPA to recognize and account for those events, as it has in the existing PCWP MACT standards. One commenter noted that when the EPA promulgated the 2004 PCWP NESHAP, the EPA determined it was appropriate not to subject mills to the numerical emission limitations in those standards during SSM events, requiring instead that sources follow work practices to minimize emissions during such events, including developing and following an SSM plan. The commenter asserted that the EPA's proposal to eliminate 40 CFR 63.2250(a), and thereby require sources to meet the same emission limitations during periods of SSM, except for very limited cases (safety related shutdowns and brief periods during startup and shutdown of pressurized refiners), represents an unauthorized change to existing MACT standards, specifically claiming that it is not the product of the technology review described in the CAA, it is not required by case law, and it is inconsistent with decades of the EPA practice and judicial interpretations of NESHAP and new source performance standards. Conversely, a commenter in favor of the EPA's proposal to eliminate the SSM exemption argued that it is legally required and necessary in this rulemaking under CAA section 112(d), including CAA section 112(d)(6), for the EPA to remove the SSM exemptions for PCWP facilities as it has proposed to do because the CAA requires standards to apply continuously and the Court precedent (*Sierra Club* v. *EPA*) is a development since the prior standards were made.

The EPA acknowledges comments in support of the removal of the 40 CFR part 63, subpart DDDD, SSM exemption and we are promulgating our proposed SSM action. We disagree with comments suggesting that the legal precedent established in case law (*Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) should not apply to subpart DDDD. The Court decision held that emission limits under CAA section 112 must apply continuously and meet minimum stringency requirements, even during periods of SSM. Consistent with the Court's decision and for the reasons explained in the proposal preamble at 84 FR 47092–47096, we are finalizing our proposal to eliminate the SSM language in subpart DDDD. As explained in the proposal, our SSM-related rule revisions are in response to the Court's vacatur of the SSM exemptions in 40 CFR 63.6(f)(1) and (h)(1). When incorporated into CAA section 112(d) regulations for specific source categories, these two provisions exempted sources from the requirement to comply with otherwise applicable MACT standards during periods of SSM. The Court's vacatur rendered those provisions null and void prior to this rulemaking. Eliminating reference to these provisions and other related General Provisions referenced in subpart DDDD reflects the vacatur by the Court. We also eliminated the rule specific SSM provisions in subpart DDDD, as discussed further in section IV.C.4 of this preamble. The specific changes in the language can be found in Docket ID No. EPA–HQ–OAR–2016–0243 in the document titled *Redline Version of 40 CFR Part 63, subpart DDDD Showing Final Changes.* However, we do not agree with the commenter who characterized the 2008 Court ruling as a "development" that compels elimination of the SSM exemption under CAA section 112(d)(6). The EPA is not and need not rely on CAA section 112(d)(6) in order to eliminate the exemption but is choosing to take action at this time to make the NESHAP consistent with the 2009 ruling. As discussed in section IV.C.2 below, we proposed and are promulgating work practice standards for specific startup and shutdown events. Therefore, all current subpart DDDD facilities affected by SSM must be in compliance with a standard at all times (*i.e.,* with either the normal operational standards or the work practices that apply during selected startup and shutdown periods) consistent with the *Sierra Club* v. *EPA* decision. Section IV.C.3 of this preamble provides further information on our position with respect to periods of malfunction.

2. Periods of Startup and Shutdown

In finalizing the standards in this rule, the EPA considered and proposed alternative actions to the simple removal of SSM provisions in the rule. As an alternative approach consistent with *Sierra Club* v. *EPA,* the EPA may designate different standards to apply during startup and shutdown. The EPA collected information with the PCWP ICR to use in determining whether applying the standards applicable under normal operations would be problematic for PCWP facilities during startup and shutdown. Facilities operating control systems generally operate the control systems while the process unit(s) controlled are started up and shut down. For example, RTOs and RCOs are warmed to their operating temperature set points using auxiliary fuel before the process unit(s) controlled startup, and the oxidizers continue to maintain their temperature until the process unit(s) controlled shutdown. Biofilters operate within a biofilter bed temperature range that will be more easily achieved during startup and shutdown with changes in biofilter bed temperature operating range discussed in section IV.F of this preamble. Based on the information collected, the EPA determined that PCWP facilities can meet standards applicable under normal operations at all times except during periods of safety-related shutdowns and pressurized refiner startups and shutdowns. To ensure that a CAA section 112 standard is met during all times, the EPA proposed alternate work practice standards for safety-related shutdowns and pressurized refiner startups and shutdowns. After considering comments on the proposed amendments, the EPA determined that an alternate work practice standard was also needed for direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners.

The following sections discuss the work practices the EPA is finalizing. Each work practice is designed to minimize emissions, in keeping with CAA requirements. All three work practices minimize the duration of time and circumstances under which they can be applied. Further, because all three work practices require the temporary suspension of material flow through the PCWP process, PCWP facilities are incentivized to minimize the use and duration of these work practices. Sections IV.C.2.a and b of this preamble discuss in more detail the work practice standards for safety-related shutdowns and pressurized refiner startup and shutdown, respectively, including comments received about the standards following proposal and the EPA's final decision regarding their requirements. Section IV.C.2.c of this preamble discusses the details of the work practice standard for direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners.

a. Safety-Related Shutdowns

As discussed in the preamble to the proposed rulemaking (84 FR 47093,

September 6, 2019) and further elaborated in the RTC document, safety-related shutdowns differ from routine, planned shutdowns where facilities can continue routing process unit emissions to the control device until the process unit is shut down. Safety-related shutdowns have been accounted for in the process design and are not necessarily frequent but are pre-determined remedial actions anticipated to occasionally occur to such a degree that they are also distinguished from malfunctions which are, by definition, infrequent and not reasonably preventable (40 CFR 63.2). Malfunctions are unpredictable and may require different types of remediation. For example, the PCWP process predictably shuts down when these events are triggered. Safety-related shutdowns must occur rapidly in the event of unsafe conditions such as a suspected fire in a process unit heating flammable wood material. When unsafe conditions are detected, facilities must act quickly to shut off fuel flow (or indirect process heat) to the system, cease addition of raw materials (*e.g.,* wood furnish, resin) to the process units, purge wood material and gases from the process unit, and isolate equipment to prevent loss of property or life and protect workers from injury. Because it is unsafe to continue to route process gases to the control system, the control system will be bypassed as the process quickly shuts down, in many cases automatically, through a system of interlocks designed to prevent dangerous conditions from occurring.

In order to clarify what constitutes a safety-related shutdown, the EPA proposed a new definition in 40 CFR 63.2292 defining a safety-related shutdown as an unscheduled shutdown of a process unit subject to a compliance option in Table 1B to 40 CFR part 63, subpart DDDD, (or a process unit with HAP control under an emissions averaging plan developed according to 40 CFR 63.2240(c)) during which time emissions from the process unit cannot be safely routed to the control system in place to meet the compliance options or operating requirements in subpart DDDD without imminent danger to the process, control system, or system operator. The EPA also proposed a work practice standard for safety-related shutdowns requiring facilities to follow documented site-specific procedures such as use of automated controls or other measures developed to protect workers and equipment to ensure that the flow of raw materials (such as furnish or resin) and fuel or process heat (as applicable) ceases and that material is removed from the process unit(s) as expeditiously as possible given the system design. These actions are taken by all (including the best-performing) facilities when safety-related shutdowns occur.

Comments were received both supporting and opposing the proposed work practice for safety-related shutdowns. Commenters in support of the standards stated that CAA section 112(h) allows the EPA to promulgate a design, equipment, work practice, or operational standard, or combination thereof, in two circumstances: (1) When HAP "cannot be emitted through a conveyance designed and constructed to emit or capture such a pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law," and (2) when "the application of measurement methodology . . . is not practicable due to technological and economic limitations." Commenters stated that safety-related shutdowns of process units with add-on control equipment present both of those circumstances and provided operational details summarized in Section 4.3 of the RTC document. The commenter explained that the best practice for controlling HAP emissions during such safety-related shutdowns is to minimize the duration of the event by promptly ceasing the addition of raw materials and heat to the process and removing materials from process equipment as soon as possible (although in some instances it is safer to have the material remain in the process equipment to contain a problem such as a fire).

A separate commenter opposed the EPA's proposed safety-related shutdown work practice standards, arguing that the EPA has not explained how the criteria under CAA section 112(h) are met to provide the EPA the statutory authority to set work practices. The commenter stated that the work practice standards the EPA proposed are too lax because they are written by the facilities with no requirement for approval by the EPA. The commenter contended that the work practices will not achieve "maximum" emission reduction because they only instruct facilities to protect workers and process equipment, with no reference to reducing air emissions. The commenter urged the EPA to clarify how recordkeeping requirements would apply in the context of work practice standards. The full comments and our responses pertaining to safety-related shutdowns are included in the RTC document. According to CAA section 112(h)(1), MACT standards may take the form of design, equipment, work practice, or operational standards "if it is not feasible in the judgement of the Administrator to prescribe or enforce an emission standard." The phrase "if it is not feasible to prescribe or enforce an emission standard" is defined in CAA section 112(h)(2)(A) and (B) to mean any situation in which the Administrator determines that: (A) A HAP or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any federal, state or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

The EPA has determined that work practices are appropriate during safety-related shutdowns in the PCWP industry because facilities cannot capture and convey HAP emissions to a control device during these periods for safety reasons. The control device could serve as an ignition source if there is an upset in the oxygen concentration or buildup of other combustibles in the PCWP process or exhaust gas collection system (*e.g.,* combustible gas, condensed pitch on ductwork if moisture-laden gases in the system are allowed to cool, or wood dust) due to various conditions (*e.g.,* if PCWP process equipment or pneumatic conveying systems become plugged). If there are sparks or fire in the PCWP process unit, conveyance, or the control device, the equipment could be damaged if exhaust continues to be routed from the PCWP process unit to the control device. A PCWP dryer or control device may experience an over-temperature condition indicative of a fire and triggering rapid equipment isolation. Thus, conveying emissions from the PCWP process unit to the control device is not technically feasible during safety-related shutdowns.

Further, application of measurement methodology is not practicable due to technological and economic limitations. Safety-related shutdowns are brief events that are incorporated into the process design for safety reasons but are not desirable operating conditions that constitute normal operations. Even if staged especially for an emissions measurement (which is economically impracticable due to lost production), the duration of safety-related shutdowns is necessarily brief (*i.e.,* minutes), less than the 1 hour it takes to collect a single emissions measurement sample if the equipment is set up and measurement contractors are onsite ready to sample, let alone the 3 hours needed for a full emissions test. Because

a full emissions measurement sample cannot be obtained during a safety-related shutdown, application of measurement methodology is not practicable due to technological limitations in addition to being economically impracticable. Therefore, it is the EPA's determination that PCWP-industry safety-related shutdowns meet the criteria in CAA section 112(h)(2)(B).

Based on our authority to set work practices, the EPA is finalizing a definition of "safety-related shutdown" in 40 CFR 63.2292 and finalizing a work practice for these shutdown events. The work practice is designed to be consistent with actions commonly undertaken by facilities to protect plant personnel, production equipment, and control equipment from dangerous circumstances like fires and explosions. The final work practice requires facilities to follow documented site-specific procedures such as use of automated controls or other measures developed to protect workers and equipment to ensure that the flow of raw materials (such as furnish or resin) and fuel or process heat (as applicable) ceases and that material is removed from the process unit(s) as expeditiously as possible given the system design to reduce air emissions. The phrase "to reduce air emissions" was added to the standard to address the concern expressed by one commenter that the work practice should direct facilities to consider air quality. The actions required by the safety-related shutdown work practice represent the maximum degree of emissions reduction achievable because they limit the amount of time, as well as the flow of raw materials and fuel into the process, and, therefore, emissions from the process undergoing safety-related shutdown. Rule language relating to the safety-related shutdown work practice was strengthened for the final rule in response to the commenter's concern that the EPA is giving full discretion to the facilities to develop their safety-related shutdown work practices for their own equipment configurations without oversight by the EPA. To strengthen the standard, the EPA added an initial compliance requirement to Table 6 of the final rule to clarify that facilities must have a record of safety-related shutdown procedures available for inspection by the delegated authority upon request. In addition, a recordkeeping requirement was added to Table 8 of the final rule to ensure documentation is available to track when the work practice is used, consistent with the proposed requirement under 40 CFR 63.2282(a)(2)(i). Finally, a reporting requirement was added to 40 CFR 63.2281(c)(4) to require facilities to report the number of instances and total amount of time during the reporting period when the safety-related shutdown work practice is used. If the safety-related shutdown work practice is used for more than 100 hours during a reporting period, the facility must report the date, time, and duration of each instance when the work practice was used. The EPA has concluded that these initial compliance and ongoing recordkeeping and reporting measures are sufficient to provide delegated authorities with information needed for oversight.

In addition, to clarify requirements, 40 CFR 63.2250(f)(6) was added to the final rule to state that the otherwise applicable compliance options, operating requirements, and work practice requirements (in rows 1 through 5 of Table 3 to 40 CFR part 63, subpart DDDD) do not apply when the startup/shutdown work practices apply (*i.e.,* the work practices in rows 6 through 8 of Table 3 to subpart DDDD for safety-related shutdown, pressurized refiner startup and shutdown, and softwood veneer dryer gas-burner relights). Thus, compliance with the startup/shutdown work practices (in Table 3 to subpart DDDD, rows 6 through 8) does not constitute a failure to meet the otherwise applicable compliance options, operating requirements, and work practice requirements because these requirements do not apply while the startup/shutdown work practices apply. Finally, 40 CFR 63.2271(b)(4) was added to clarify that instances when the startup/shutdown work practice requirements are used (as reported under 40 CFR 63.2281(c)(4)) are not considered to be deviations from (or violations of) the otherwise applicable compliance options, operating requirements, and work practice requirements (in rows 1 through 5 of Table 3 to subpart DDDD) as long as facilities do not exceed the minimum amount of time necessary for these events.

b. Pressurized Refiner Startups and Shutdowns

Pressurized refiners use steam to heat and soften wood under pressure to grind it apart between rotating discs into fibers. Pressurized refiners discharge wood fiber and exhaust gases from refining directly into a primary tube dryer. Pressurized refiners cannot be vented through the dryer to the control system (*i.e.,* the dryer control system) for a brief time after they are initially fed wood material during startup and as wood material clears the refiner during shutdown because they are not producing useable fiber suitable for drying or producing PCWP products (hardboard or MDF). During this time, instead of the pressurized refiner output being discharged into the dryer, exhaust is vented to the atmosphere (*e.g.,* through an abort cyclone) and the wood is directed to a reclaim bin for storage and, commonly, recycling back into the refining process once it is running steadily. No resin is mixed with the off-specification material and the time periods are short (*e.g.,* 15 minutes or less) before the pressurized refiner begins to discharge wood fiber and exhaust through the dryer and when the refiner is shutting down.

The EPA proposed a work practice requirement in Table 3 of the rule (40 CFR part 63, subpart DDDD) to apply during pressurized refiner startup and shutdown that limits the amount of time (and, thus, emissions) when wood is being processed through the system while exhaust is not routed through the dryer to its control system. This practice is consistent with how the best-performing facilities complete startup and shutdown of pressurized refiners. The proposed work practice stated that facilities must route exhaust gases from the pressurized refiner to its control system no later than 15 minutes after furnish is fed from the pressurized refiner to the tube dryer when starting up, and no more than 15 minutes after furnish ceases to be fed to the pressurized refiner when shutting down.

Comments were received both supporting and opposing the pressurized refiner startup and shutdown work practice standard. Commenters supporting the work practice stated that periods of startup and shutdown of pressurized refiners meet the CAA section 112(h) criteria for establishing a work practice standard, while commenters opposing the work practice argued that the EPA does not have statutory authority to apply work practice standards instead of numerical emissions limits to pressurized refiner startup and shutdown periods.

Commenters in support of the EPA's proposed work practice standard for startup and shutdown of pressurized refiners noted that the language of the standard in Table 3 to 40 CFR part 63, subpart DDDD appears to have a typographical error. The commenters suggested rewording the standard in Table 3 so that it instructs facilities to route exhaust gases from the pressurized refiner to the dryer control system no

later than 15 minutes after wood is fed to the pressurized refiner when starting up and to stop wood flow to the pressurized refiner no more than 15 minutes after wood fiber stops being fed to the dryer from the pressurized refiner. The commenter opposing the work practice standard also questioned the timing and recordkeeping requirements. The full comments and our responses pertaining to pressurized refiners are included in the RTC document.

In response to these comments, the EPA concluded pressurized refiner startup and shutdown events meet the criteria in CAA section 112(h)(2)(B). Pressurized refiners are a particular class of sources where emissions are associated with wood processed through the refiner. Pressurized refiners cannot discharge unusable fiber through the tube dryer and its control system during startup and shutdown. Because venting through the pressurized refiner abort cyclone during startup and shutdown of pressurized refiners typically lasts 15 minutes or less, there are technological limitations to measuring emissions because HAP measurement methods require a 1-hour sampling time per test run, and a total of three test runs. The only way to obtain the required sample would be to operate in abort mode for each 1-hour sampling time. However, abort "bins" used to collect the off-spec wood furnish dumped from the system are not designed like material collection bins or silos for useable furnish at wood products facilities. Instead, the abort "bins" are often areas where off-spec fiber is dumped on the ground between concrete wind-breaks where it is removed with a front-end loader. Such areas do not have the capacity for dumping large amounts of fiber as would be needed to stage an event for 1 to 3 hours of testing, presenting another technological limitation. Staging abort dumping of 1 to 3 hours of fiber production also presents obvious economic limitations due to lost production for that time and loss or degradation of valuable fiber raw material. Finally, measuring emissions during pressurized refiner startup and shutdown is impractical because the PCWP NESHAP requires emissions measurement under representative operating conditions that are the conditions under which the process unit typically operates, excluding periods of startup and shutdown. Therefore, the EPA is finalizing a work practice for pressurized refiner startup and shutdown periods.

The EPA agrees that the wording of the proposed work practice standard for pressurized refiners in Table 3 needed clarification and has rewritten the standard for the final rule to instruct facilities to route exhaust gases from the pressurized refiner to its dryer control system no later than 15 minutes after wood is fed to the pressurized refiner during startup, and to stop wood flow into the pressurized refiner no more than 15 minutes after wood fiber and exhaust gases from the pressurized refiner stop being routed to the dryer during shutdown. In addition, we strengthened the work practice for startup/shutdown of pressurized refiners in the final rule by clarifying when the startup/shutdown work practice applies in 40 CFR 63.2250(f)(6), adding an initial compliance requirement to Table 6 of 40 CFR part 63, subpart DDDD, and adding a recordkeeping requirement to Table 8 of subpart DDDD to track when the work practice is used, consistent with the proposed requirement under 40 CFR 63.2282(a)(2)(i). Continuous compliance and reporting provisions were also added in 40 CFR 63.2271(b)(4) and 63.2281(c)(4), respectively, to provide clarity and aid in enforceability of the work practice requirement.

c. Veneer Dryer Burner Relights

An issue with veneer dryer burner relights stemming from removal of the SSM exemption was raised during the comment period for the proposed amendments. The EPA received a comment seeking clarification for direct-fired softwood veneer dryers undergoing relights of gas-fired burners. Specifically, the commenter noted that 40 CFR 63.2250(d) of the current PCWP rule defines shutoff of direct-fired burners resulting from partial or full production stoppages as shutdowns and the lighting or re-lighting of any one or all gas burners in direct-fired softwood veneer dryers as startups and not a malfunction. The commenter noted that the EPA proposed no changes to 40 CFR 63.2250(d) which was originally included in the PCWP rule to clarify that veneer dryer burner relights are not malfunctions due to their frequency. In the 2004 promulgated standard, these startup/shutdown events were required to be addressed under the SSM plan. The commenter explained that following the flame out of the burner, the dryer could contain non-combusted natural gas that must be purged prior to safely re-lighting the gas burners. Non-combusted natural gas cannot be exhausted to the control device due to safety concerns and must be vented along with whatever process emissions are in the dryer. The length of the purge varies based on system design, but only lasts a matter of minutes. Emissions are routed to the control system as expeditiously as possible following the burner re-light. Therefore, the commenter stated a dryer gas burner re-lighting startup work practice is needed for the same reasons as a safety shutdown work practice. However, because 40 CFR 63.2250(d) deals with dryer re-lights by defining them as startups, and the proposed rulemaking no longer contains a general exemption for startups, the commenter stated that some provision is needed for veneer dryer gas burner lighting and re-lighting.

In response to this comment, the EPA added a work practice to Table 3 of the final rule to clarify the requirements surrounding softwood veneer dryer gas-fired burner relights to ensure a standard applies continuously once the SSM plan is no longer required. The work practice requires direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners to cease feeding green veneer into the softwood veneer dryer and minimize the amount of time direct gas-fired softwood veneer dryers are vented to the atmosphere due to the conditions described in 40 CFR 63.2250(d). Related text was added to 40 CFR 63.2250(f) noting the work practice in Table 3 of 40 CFR part 63, subpart DDDD, applies when the otherwise applicable compliance options and operating requirements in the rule cannot be met. An initial compliance requirement was added to Table 6 of subpart DDDD to have a record of the procedures for startup and shutdown of softwood veneer dryer gas-fired burners available for inspection upon request by the delegated authority. In addition, a recordkeeping requirement was added to Table 8 of subpart DDDD to track when the work practice is used, consistent with the proposed requirement under 40 CFR 63.2282(a)(2)(i). Continuous compliance and reporting provisions were also added in 40 CFR 63.2271(b)(4) and 63.2281(c)(4), respectively, to provide clarity and aid in enforceability of the work practice requirement. Conforming changes to refer to the veneer dryer burner relight work practice with the other startup/shutdown work practices were also made throughout the rule.

Further clarification with respect to 40 CFR 63.2250(d) is needed as a result of our proposal to remove the SSM exemption (including the SSM plan). The EPA determined that a work practice is appropriate during direct-fired softwood veneer dryer startups/shutdowns of gas-fired burners because the conditions of CAA section 112(h)(2)(A) and (B) are both present during veneer dryer burner relights.

Facilities cannot capture and convey HAP emissions to a control device during these periods for safety reasons. The control device for the veneer dryer could serve as an ignition source if there is an upset in the oxygen concentration or increase in the natural gas concentration in the system. Thus, is it not technically feasible for HAP emissions to be conveyed to the control device during startups/shutdowns associated with softwood veneer dryer gas-burner relights. Further, application of measurement methodology is not practicable due to technological and economic limitations. Softwood veneer dryer burner relights are brief events that take less than the 1 hour it takes to collect a single emissions measurement sample if the equipment is set up and measurement contractors are onsite ready to sample, let alone the 3 hours needed for a full emissions test. Because a full emissions measurement sample cannot be obtained while softwood veneer dryers are undergoing gas-burner relights, application of measurement methodology is not practicable due to technological limitations. In addition, attempting to stage softwood veneer dryer burner relights for purposes of emissions measurement is economically impracticable because veneer is not being dried or moving through the veneer dryer when the burners are not lit, resulting in a production loss during testing. Therefore, the EPA concludes that direct-fired softwood veneer dryers undergoing startup/shutdown of gas-fired burners meet the criteria in CAA section 112(h)(2)(B).

3. Periods of Malfunction

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level "achieved" by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation "achieved" by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level "achieved" by the best performing sources when setting emission standards. As the Court has recognized, the phrase "average emissions limitation achieved by the best performing 12 percent of" sources "says nothing about how the performance of the best units is to be calculated." *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a "normal or usual manner" and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

As the Court recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 ("the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances"). As such, the performance of units that are malfunctioning is not "reasonably" foreseeable. See *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) ("The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.'"). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) ("In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation."). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunction that result in releases from pressure relief devices or emergency flaring events because the EPA had information for that source category to determine that such work practices reflected the level of control that applies to the best performers. 80 FR 75178, 75211–14 (December 1, 2015). In the proposed rulemaking for the PCWP, the EPA did not propose a work practice standard for malfunctions but instead stated that the EPA would consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. The EPA encouraged commenters to provide any such information.

Numerous comments were received supporting and opposing the EPA's decision not to set a standard for malfunctions. One commenter opposed to the EPA's decision stated that there are several options the EPA could use

for setting emission standards under CAA section 112 that would apply during malfunction events. For example, the commenter stated that the EPA might be able to establish a numerical emission limitation that applies at all times but has an averaging time of sufficient duration that short, infrequent spikes in emissions due to malfunctions would not cause the source to exceed the emission limitation (while at the same time ensuring that the source does not operate in a way that causes frequent, lengthy excursions above the normal controlled emission rate). The EPA also could use the flexibility accorded by CAA section 302(k) (which defines "emission limitation" and "emission standard" to include "any requirement relating to the operation or maintenance of a source to ensure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under" the CAA) to address emissions during malfunction events through operational requirements rather than by applying the same limits on pollutant emissions that apply during normal operations. Similarly, the commenter stated the EPA has grounds to exercise its authority under CAA section 112(h) to promulgate a design, equipment, work practice, or operational standard, or combination thereof, because it is not feasible to prescribe or enforce an emission standard. The commenter noted that even if the EPA does not identify a set of specific work practices that all affected facilities can follow that represent best practices for minimizing emissions during malfunctions, the EPA might instead be able to address malfunctions through a set of criteria that allows facilities to develop and follow a site-specific plan for minimizing the extent and duration of excess emissions during malfunctions. The commenter suggested that the EPA might use several of these approaches in combination and stated that accommodating malfunctions need not result in either an exemption or an increased numerical emission limitation. The commenter urged the EPA to use its authority under CAA sections 112 and 302(k) to address malfunctions in a reasonable, CAA section 112-compliant manner.

Conversely, another commenter supported the EPA's proposed removal of unlawful SSM exemptions in all forms because the CAA requires standards to apply continuously, and the Court precedent is a development since the prior standards were issued.

After considering all comments, the EPA is not finalizing a separate standard for periods of malfunction. In the PCWP proposed rulemaking, we requested comment and information to support the development of a work practice standard during periods of malfunction, but we did not receive sufficient information, including additional quantitative emissions data, on which to base a standard for periods of malfunction. Absent sufficient information, it is not reasonable at this time to establish a work practice standard for malfunctions for this source category.

4. Revisions to Table 10 to Subpart DDDD of Part 63

The EPA proposed several specific revisions to Table 10 to subpart DDDD of part 63 (the General Provisions table) to establish standards in this rule that apply at all times. The EPA is finalizing the amendments as proposed, with the clarifications noted in the following sections. The specific revisions are described in the remainder of this section.

a. General Duty (40 CFR 63.2250)

The EPA is finalizing the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(1) and (2) by redesignating it as 40 CFR 63.6(e)(1)(i) and changing the "yes" in column 4 to a "no" in column 5 which was added to specify requirements 1 year after the effective date of the final amendments. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. The EPA is instead adding a general duty regulatory text at 40 CFR 63.2250 that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is finalizing for 40 CFR 63.2250 does not include that language from 40 CFR 63.6(e)(1).

The EPA is also revising the General Provisions table (Table 10) by adding an entry for 40 CFR 63.6(e)(1)(ii) and including a "no" in column 5. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.2250.

b. SSM Plan

The EPA is finalizing revisions to the General Provisions table (Table 10) to add an entry for 40 CFR 63.6(e)(3) by changing the "yes" in column 4 to a "no" in column 5. Generally, the paragraphs under 40 CFR 63.6(e)(3) require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is finalizing removal of the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan requirements are no longer necessary.

c. Compliance With Standards

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.6(f)(1) by changing the "yes" in column 4 to a "no" in columns 4 and 5. The final revision in column 4 refers to 40 CFR 63.2250(a). The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed in section IV.C.1 of this preamble, the Court in *Sierra Club* v. *EPA* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with the Court decision, the EPA is finalizing the revised standards in this rule to apply at all times.

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.6(h)(1) through (9) by redesignating it as 40 CFR 63.6(h)(1) and changing the "NA" in column 4 to a "no" in column 5. The current language of 40 CFR 63.6(h)(1) exempts sources from opacity standards during periods of SSM. As discussed in section IV.C.1 of this preamble, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with the Court decision, the EPA is finalizing the revised standards in this rule to apply at all times.

d. Performance Testing (40 CFR 63.2262)

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.7(e)(1) by changing the "yes" in column 4 to a "no" in column 5. Section 63.7(e)(1) describes performance testing requirements. The

EPA is finalizing instead the addition of a performance testing requirement at 40 CFR 63.2262(a) and (b). The performance testing requirements the EPA is adding differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption. The finalized performance testing provisions remove reference to 40 CFR 63.7(e)(1), reiterate the requirement that was already included in the PCWP rule to conduct emissions tests under representative operating conditions, and clarify that representative operating conditions excludes periods of startup and shutdown. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are not representative of normal operating conditions. The EPA is finalizing added language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions are representative. Section 63.7(e) requires that the owner or operator make available to the Administrator such records "as may be necessary to determine the condition of the performance test" upon request but does not specifically require the information to be recorded. The added regulatory text to this provision that the EPA is finalizing builds on that requirement and makes explicit the requirement to record the information.

The EPA is also finalizing the definition of "representative operating conditions" in 40 CFR 63.2292 to clarify that it excludes periods of startup and shutdown. Representative operating conditions include a range of operating conditions under which the process unit and control device typically operate and are not limited to conditions of optimal performance of the process unit and control device.

e. Monitoring

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.8(c)(1)(i) and (iii) by changing the "yes" in column 4 to a "no" in column 5. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding an entry for 40 CFR 63.8(d)(3) and including a "no" in column 5. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is finalizing adding to the rule at 40 CFR 63.2282(f) text that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: "The program of corrective action should be included in the plan required under 40 CFR 63.8(d)(2)."

f. Recordkeeping (40 CFR 63.2282)

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.10(b)(2)(i) through (iv) by redesignating it as 40 CFR 63.10(b)(2)(i) and changing the "yes" in column 4 to a "no" in column 5. Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. The EPA is finalizing instead the addition of recordkeeping requirements to 40 CFR 63.2282(a). When a source is subject to a different standard during startup and shutdown, it will be important to know when such startup and shutdown periods begin and end to determine compliance with the appropriate standard. Thus, the EPA is finalizing adding language to 40 CFR 63.2282(a) requiring that sources subject to an emission standard during startup or shutdown that differs from the emission standard that applies at all other times must record the date, time, and duration of such periods.

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(b)(2)(ii) and including a "no" in column 5. Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is finalizing the addition of such requirements to 40 CFR 63.2282(a). The final regulatory text the EPA is adding differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is finalizing this requirement to apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the "occurrence." The EPA is also finalizing adding to 40 CFR 63.2282(a) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the compliance option in 40 CFR 63.2240 the source failed to meet (including the compliance options in Table 1A or B to 40 CFR part 63, subpart DDDD, or the emissions averaging compliance option), and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is finalizing the requirement that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard. For each failure to meet an operating requirement in Table 2 to subpart DDDD or work practice requirement in Table 3 to subpart DDDD, facilities must maintain sufficient information to estimate the quantity of each regulated pollutant emitted over the emission limit. This information must be sufficient to provide a reliable emissions estimate if requested by the Administrator.

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(b)(2)(iv) and including a "no" in column 5. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.2282(a).

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding 40 CFR 63.10(b)(2)(v) to the entry for 40 CFR 63.10(b)(2)(iv) and including a "no" in column 5. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(c)(15) and including a "no" in column 5. The EPA is finalizing that 40 CFR

63.10(c)(15) no longer apply. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is finalizing eliminating this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

g. Reporting (40 CFR 63.2281)

The EPA is finalizing revisions to the General Provisions table (Table 10) entry for 40 CFR 63.10(d)(5) by redesignating it as 40 CFR 63.10(d)(5)(i) and changing the "yes" in column 4 to a "no" in column 5. Section 63.10(d)(5)(i) describes the reporting requirements for SSM events. To replace the General Provisions reporting requirement, the EPA is finalizing adding reporting requirements to 40 CFR 63.2281(d) and (e). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. The EPA is finalizing language that requires sources that fail to meet an applicable compliance option in 40 CFR 63.2240 at any time to report the information concerning such events in the semiannual compliance report already required under this rule. The EPA is finalizing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is finalizing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

A commenter on the proposed rulemaking stated that facilities may not have information to estimate emissions resulting from a deviation from an operating parameter limit (*e.g.,* low oxidizer or biofilter temperature), and requested that emissions estimates only be required to be recorded or reported for failure to meet an emission limit. As explained in the RTC document included in the docket, EPA agrees that precise measurement of PCWP process unit emissions during an operating requirement deviation under the PCWP NESHAP is challenging unless the failure occurs during a performance test. Therefore, 40 CFR 63.2281(e)(12) was updated for the final rule to require reporting of an emission estimate only for failures to meet the numerical emission compliance options in 40 CFR 63.2240, including the compliance options in Table 1A or 1B of subpart DDDD or the emissions averaging compliance option. As noted in section IV.C.4.f of this preamble, 40 CFR 63.2282(a) requires recordkeeping of sufficient information to provide an emissions estimate associated with failure to meet an operating or work practice requirement, if requested by the Administrator.

The EPA will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The finalized amendments, therefore, eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

The EPA is finalizing revisions to the General Provisions table (Table 10) by adding an entry for 40 CFR 63.10(d)(5)(ii) and including a "no" in column 5. Section 63.10(d)(5)(ii) describes an immediate report for SSM events when a source failed to meet an applicable standard but did not follow the SSM plan. The EPA will no longer require owners or operators to report when actions taken during an SSM event were not consistent with an SSM plan, because plans would no longer be required.

Also, the EPA is removing and reserving 40 CFR 63.2281(e)(1) which required reporting of the date and time when each malfunction started and stopped. As discussed in section IV.C.4.f of this preamble, reporting is required for deviations from the applicable standard as opposed to every malfunction occurrence regardless of whether it results in a failure to meet the standard. Section 40 CFR 63.2281(e)(4) requires reporting of the date and time each deviation started and stopped, and whether each deviation occurred during a period of SSM.

D. Electronic Reporting

The EPA proposed that owners or operators of PCWP facilities submit electronic copies of required performance test reports, performance evaluation reports for continuous monitoring systems (CMS) measuring relative accuracy test audit (RATA) pollutants (*i.e.,* total hydrocarbon monitors), selected notifications, and semiannual reports through the EPA's Central Data Exchange (CDX) using the CEDRI. The EPA proposed that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [5] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of CMS measuring RATA pollutants that are supported by the ERT at the time of the test would be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For the PCWP semiannual report, the EPA proposed that owners or operators use a spreadsheet template to submit information to CEDRI. A draft version of the spreadsheet template for this report was included in the docket for the proposed rulemaking and the EPA specifically requested comment on its content, layout, and overall design.[6] The EPA also proposed to require future initial notifications developed according to 40 CFR 63.2280(b) and notifications of compliance status developed according to 40 CFR 63.2280(d) to be uploaded in CEDRI in a user-specified (*e.g.,* PDF) format. In addition, the EPA proposed two broad circumstances in which electronic reporting extensions may be granted. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA proposed these potential extensions to protect owners or operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons

[5] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[6] See *40 CFR part 63, subpart DDDD—Plywood and Composite Wood Products Semiannual Compliance Reporting Spreadsheet Template,* Docket Item No. EPA–HQ–OAR–2016–0243–0176.

outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.2281(k). The situation where an extension may be warranted due to a *force majeure* event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.2281(l). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The EPA received several comments regarding the proposed electronic reporting requirements, including favorable comments and comments suggesting revisions. The electronic reporting requirements are included in the final rule as proposed with clarification of specific questions raised by commenters. Specific comments pertaining to the draft spreadsheet template are detailed in the RTC document along with the EPA's responses explaining how these comments were used to improve the template. A revised version of the semiannual electronic reporting spreadsheet template is available in the docket for the final rule.

One commenter requested that the requirement to use a CEDRI form should not begin until after the form has been available in CEDRI for at least 1 year. The commenter also recommended that the transition to using the new reporting form apply to an entire reporting period, not come into effect in the middle of a reporting period and result in two different reports being prepared. In response to this comment, we revised the final rule to specify use of the semiannual reporting template for the first full reporting period after it has been available on the CEDRI website for 1 year. Refer to section IV.J of this preamble for more discussion of the compliance timeline. The EPA proposed a conforming amendment in Table 9 to 40 CFR part 63, subpart DDDD, to require submittal of CMS performance evaluations according to the electronic reporting provisions for performance evaluations proposed in 40 CFR 63.2281(j). One commenter requested that the EPA clarify that CMS performance evaluations should be submitted only for continuous emission monitoring systems (CEMS) and not for continuous parameter monitoring systems. In response to these requests for clarification, we revised Table 9 to subpart DDDD to refer to state the CMS performance evaluation to be reported is the performance evaluation required for CEMS under 40 CFR 63.2269(d)(2). As discussed in section IV.G of this preamble, for the final rule, we also revised Table 10 of subpart DDDD to clarify that the CMS performance evaluation provisions in 40 CFR 63.8(e) and the RATA provisions in 40 CFR 63.8(f)(6) only apply for CEMS under subpart DDDD.

E. Repeat Emissions Testing

As part of an ongoing effort to improve compliance with federal air emission regulations, the EPA reviewed the emissions testing requirements of 40 CFR part 63, subpart DDDD, and proposed to require facilities complying with the standards in Table 1B of 40 CFR part 63, subpart DDDD, using an add-on control system other than a biofilter to conduct repeat emissions performance testing every 5 years. Currently, facilities operating add-on controls are required to conduct an initial performance test by the date specified in 40 CFR 63.2261(a). In addition to the initial performance test, process units controlled by biofilters are already required by the PCWP NESHAP to conduct repeat performance testing every 2 years. Periodic performance tests for all types of control systems are already required by permitting authorities for many facilities. Further, the EPA believes that requiring repeat performance tests will help to ensure that control systems are properly maintained over time. As proposed in Table 7 to 40 CFR part 63, subpart DDDD (row 7), the first of the repeat performance tests would be required to be conducted within 3 years of the effective date of the revised standards or within 5 years (60 months) following the previous performance test, whichever is later, and thereafter within 60 months following the previous performance test. Section IV.J of this preamble provides more information on compliance dates.

The EPA specifically requested comments on the proposed requirements for repeat performance testing. One commenter agreed with the proposed requirements and stated they are well supported and legally required as part of meeting the EPA's statutory obligations. The EPA received other comments requesting clarification of the requirements surrounding repeat testing. One commenter requested clarification with regards to whether the repeat testing is to include press capture efficiency testing and requested due to cost, that repeat press capture efficiency testing only be required if an alteration has been made to the enclosure that would significantly affect its efficacy. In response to this comment, a footnote was added to Table 7 to 40 CFR part 63, subpart DDDD, clarifying that capture efficiency demonstration is not required with repeat performance tests if the capture device is maintained and operated consistent with its design as well as its operation during the previous capture efficiency demonstration conducted according to Table 4 to subpart DDDD, row 9 as specified in 40 CFR 63.2267.[7] Aside from this clarification, the proposed requirements for repeat emissions testing every 5 years for add-on controls other than biofilters are included in the final rule as proposed.

Two commenters requested more flexibility for catalytic oxidizer catalyst checks required by the rule given the added repeat testing requirements. The commenters requested the frequency of catalyst checks be revised to "annual" or no more than every 15 months and requested the requirement for catalyst checks be eliminated during years when emissions tests are conducted. In response to these comments, the EPA revised Tables 2 and 7 to 40 CFR part 63, subpart DDDD, to refer to "annual" catalyst checks and included a footnote stating that facilities may forego the annual catalyst activity check during the calendar year when a performance test conducted according to Table 4 to subpart DDDD. The final rule requires that, in each calendar year, either a performance test or a catalyst activity check must be conducted.

One commenter requested clarification that the Notification of Compliance Status (NCS) is only required with the initial performance test, not with each repeat performance test. As explained further in the RTC document, a NCS is required with initial and repeat performance tests under 40 CFR 63.9. In response to this comment, the EPA deleted the word "initial" from 40 CFR 63.2280(d) and added a phrase mentioning the "repeat performance test as specified in Table 7 to this subpart" so it is clearer that a NCS is required when performing repeat testing according to the methods in Table 4 to 40 CFR part 63, subpart DDDD. The EPA also deleted the word "initial" and added a reference to Table 7 to subpart DDDD (which includes repeat testing in

[7] The footnote added to Table 7 to 40 CFR part 63, subpart DDDD, clarifying when capture efficiency testing is required was included for biofilters and other control devices undergoing repeat emissions testing.

rows 3 and 7) to 40 CFR 63.2280(d)(2) and clarified that the NCS only needs to have "a summary of" the performance test results submitted according to the electronic performance test reporting provisions in 40 CFR 63.2281(i).

F. Biofilter Bed Temperature

Facilities using a biofilter to comply with the PCWP NESHAP must monitor biofilter bed temperature and maintain the 24-hour block biofilter bed temperature within the range established during performance testing showing compliance with the emission limits. As originally promulgated, the upper and lower limits of the biofilter bed temperature were required to be established as the highest and lowest 15-minute average bed temperatures, respectively, during the three test runs. Facilities may conduct multiple performance tests to expand the biofilter bed operating temperature range. See 40 CFR 63.2262(m).

The EPA learned that multiple facilities are having difficulty complying with the PCWP biofilter bed temperature monitoring requirements established according to the original rule. Biofilter bed temperature is affected by ambient temperature which cannot always be accurately predicted in advance of scheduling performance tests. In consideration of this issue, as discussed in the preamble for the proposed amendments (at 84 FR 47097), the EPA proposed to revise 40 CFR 63.2262(m)(1) to add a 5-percent variability margin to the biofilter bed temperature upper and lower limits established during emissions testing.

Commenters on the proposal stated that the proposed 5-percent variability margin is insufficient, particularly on the lower end of the biofilter bed temperature range and recommended instead that the EPA provide a wider margin allowance or extend the operating limit averaging period beyond the current 24-hour period. The commenters stated that, unlike other common air pollution control devices with operating parameters that can be controlled within a small percentage of set point and are not subject to ambient atmospheric conditions, biofilters are influenced by diurnal, day-to-day, and seasonal ambient temperature variations because they are typically located outside due to their size. They further stated that in practical terms, in order to set the widest bed temperature range, a facility must test on the coldest and the hottest day of the year, yet predicting those days is not possible and is further complicated by the fact that stack test teams and permitting agencies must be given months of advance notice when scheduling a test.

To address the commenters' concern that a 5-percent variability margin is insufficient, the EPA increased the variability margin to 10 percent for the final rule with the stipulation that the variability margin not exceed 8 degrees Fahrenheit (°F) on the upper end of the biofilter bed range. As noted in the memorandum, *Review of Select Biofilter/Bioscrubber Data Submitted in Response to the Plywood and Composite Wood Products Information Collection Request,* Docket Item No. EPA–HQ–OAR–2016–0243–0188, the biofilter bed temperature across all of the biofilters in the PCWP industry spans from 40 °F to 150 °F. On the low end of this range, 5 percent is 2 °F while 10 percent is 4 °F. On the high end of the range, 5 percent is 8 °F while 10 percent is 15 °F. The upper-end value of 15 °F added to 150 °F would allow the facility to operate at 165 °F, which the EPA considers excessive in the absence of data showing this temperature is not detrimental to the microbial population. Therefore, for the final rule, the EPA capped the variability margin for the high end of the biofilter bed temperature range at 8 °F (which coincides with the margin proposed). Thus, for the high-end biofilter bed temperature, facilities may add up to 10 percent, not to exceed 8 °F.

The EPA anticipates that facilities currently having difficulty maintaining the biofilter bed temperature limits may wish to adjust their temperature limits. As originally promulgated, 40 CFR 63.2262(m)(1) states that facilities may base their biofilter bed temperature range on values recorded during previous performance tests provided that the data used to establish the temperature ranges have been obtained using the required test methods; and that facilities using data from previous performance tests must certify that the biofilter and associated process unit(s) have not been modified since the test. This provision (if met) clarifies that facilities can adjust their previously established biofilter temperature range to include the 5-percent variability margin, if desired.

G. Thermocouple Calibration

At 40 CFR 63.2269(b)(4), the PCWP NESHAP currently requires conducting an electronic calibration of the temperature monitoring device at least semiannually according to the procedures in the manufacturer's owner's manual. Stakeholders with facilities subject to the standard explained to the EPA that they are unaware of a thermocouple manufacturer that provides procedures for conducting electronic calibration of thermocouples. According to stakeholders, facilities have been replacing thermocouples because they cannot electronically calibrate them. The stakeholders requested the EPA consider an alternative approach to the current requirement in 40 CFR 63.2269(b)(4). To address this issue, the EPA proposed revisions to 40 CFR 63.2269(b)(4) to allow multiple alternative approaches to thermocouple validation.

The EPA received comments supporting the proposed revisions to 40 CFR 63.2269(b)(4) and we are promulgating these revisions as proposed with minor clarifications. In response to a comment that the word "calibration" be removed from 40 CFR 63.2269(b)(5), the EPA is amending this paragraph to replace "calibration and validation checks" with "validation checks" and to specify that validation checks be conducted using the procedures in 40 CFR 63.2269(b)(4). One commenter requested the EPA to clarify that temperature sensor validations are not performance evaluations requiring formal notification and reporting under 40 CFR 63.8. For the final rule, the EPA has revised Table 10 of 40 CFR part 63, subpart DDDD, to clarify that the CMS performance evaluation provisions in 40 CFR 63.8(e) and the RATA provisions in 40 CFR 63.8(f)(6) only apply for CEMS under subpart DDDD.

H. Non-HAP Coating Definition

The EPA proposed to replace the references to Occupational Safety and Health Administration (OSHA)-defined carcinogens and 29 CFR 1910.1200(d)(4) in the PCWP "non-HAP coating" definition with a reference to a new appendix B to 40 CFR part 63, subpart DDDD. The proposed appendix listed the specific carcinogenic HAP that must be below 0.1 percent by mass for a PCWP coating to be considered a non-HAP coating.

One commenter stated that the Hazard Communication Standard (HCS) (29 CFR 1910.1200(g)), revised in 2012, requires that a chemical manufacturer, distributor, or importer provide a Safety Data Sheet (SDS) (formerly MSDSs or Material Safety Data Sheets) for each hazardous chemical to downstream users, and that PCWP facilities rely on SDSs to identify whether coatings contain carcinogens. The commenter stated that if the EPA finalizes a separate list of HAP in appendix B to 40 CFR part 63, subpart DDDD, there will be no certainty as to whether non-HAP coatings are being used because of the

discrepancy in HAP listed on SDSs (per the HCS) and in appendix B to subpart DDDD. The commenter suggested the EPA should remove appendix B to subpart DDDD and instead reference the OSHA SDS requirements for classification of carcinogenicity at 29 CFR 1910.1200, appendix A, section A.6.4, which match the requirements in the now obsolete OSHA regulatory reference proposed for deletion from the PCWP non-HAP coating definition.

The EPA agrees that referencing appendix A to 29 CFR 1910.1200 in the PCWP rule's non-HAP coating definition is a more streamlined approach for the PCWP NESHAP than use of the proposed appendix B to 40 CFR part 63, subpart DDDD. The OSHA language the PCWP proposal sought to replace is in appendix A to 29 CFR 1910.1200, section A.6.4. For the final PCWP amendments, the EPA is defining non-HAP coating to mean a coating with HAP contents below 0.1 percent by mass for OSHA-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200 and below 1.0 percent by mass for other HAP compounds. As a result of the new reference, the proposed appendix B is not being finalized.

I. Technical and Editorial Changes

The EPA is finalizing the following technical and editorial changes to the final rule as proposed:

- The clarifying reference to "SSM plans" in 40 CFR 63.2252 was removed because SSM plans would no longer be applicable after the date specified in 40 CFR 63.2250(c);
- the redundant reference in 40 CFR 63.2281(c)(6) for submittal of performance test results with the compliance report was eliminated because performance test results would be required to be electronically reported;
- the EPA revised 40 CFR 63.2281(d)(2) and added language to 40 CFR 63.2281(e) introductory text and (e)(12) and (13) to make these paragraphs more consistent to facilitate electronic reporting;
- a provision stating that the EPA retains authority to approve alternatives to electronic reporting was added to 40 CFR 63.2291(c)(5);
- cross-references to the 40 CFR part 60 appendices containing test methods were updated in Table 4 of the rule;
- cross-references were updated throughout the rule, as needed, to match the proposed changes;
- cross-references to 40 CFR 63.14 were updated to remove outdated paragraph references;
- the equation number cross-referenced in the definition of "MSF" was corrected; and
- the cross-reference in 40 CFR 63.2290 was updated to include all sections of the General Provisions.

J. Compliance Dates

The EPA proposed that existing affected sources and other affected sources that commenced construction or reconstruction on or before September 6, 2019, must comply with all of the amendments 6 months (180 days) after the effective date of the final rule.[8] The EPA also proposed the addition of electronic reporting requirements that will require use of a semiannual reporting template once the template has been available on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for 6 months. New requirements to conduct repeat performance testing every 5 years for facilities using an add-on control system other than a biofilter (see section IV.E of this preamble) were also proposed. The first of the repeat performance tests would be required to be conducted within 3 years after the effective date of the revised standards, or within 5 years (60 months) following the previous performance test, whichever is later, and thereafter within 60 months following the previous performance test. The EPA specifically requested comment on whether the proposed compliance times provide enough time for owners or operators to comply with the proposed amendments, and if the proposed time window is not adequate, requested that commenters provide an explanation of specific actions that would need to be undertaken to comply with the proposed amended requirements and the time needed to make the adjustments for compliance with any of the revised requirements.

One commenter stated that the 180 days proposed by the EPA for existing facilities to comply with all of the proposed amendments is not enough time to complete all of the activities that must be done in order to effect a smooth transition to the new requirements, including: Developing a site-specific implementation plan; implementing new startup and shutdown procedures; reprogramming of electronic systems and automated alarms to account for the removal of SSM provisions and the addition of new startup and shutdown related work practices; reworking recordkeeping and reporting systems to match the layout of the new CEDRI form (*e.g.,* breaking out reporting by individual equipment instead of by process group); developing and communicating guidance to ensure consistent implementation across a company's facilities; preparing permit applications and acquiring revised air permits to reflect the elimination of SSM provisions and addition of new requirements; developing procedures for estimating excess emissions due to deviations; and developing and providing training for facility staff on the revised requirements. The commenter further stated that applying for and receiving a permit revision to reflect the revised requirements alone will likely take more than 180 days and expressed concern that if additional time is not provided and if current permit language conflicts with the final RTR rule, facilities will have to determine how to comply with both the old requirements and the new requirements. The commenter also noted that working with information technology support staff to re-program a facility's electronic systems to align with the new requirements is an effort that takes more than 180 days to plan and implement.

After considering the public comments, the EPA recognizes that 180 days is not practicable for completion of the steps needed to implement the PCWP rule changes given the complexity of operations in the PCWP source category. The PCWP industry involves manufacturing of several different products, using a variety of process unit and control system combinations that differ from facility to facility. As documented in the technology review, the PCWP processes and controls at many mills are highly interconnected (*e.g.,* where multiple different types of process units are routed to the same control device; process units of one type are routed through process units of a different type to emissions control; or where the furnace that provides process heat is also part of the air pollution control system for some processes). The interconnectivity of processes and fire-prevention systems needed for processing wood requires a high degree of automation and interconnection in the programmable logic controllers and data acquisition systems (DAS) tailored to each PCWP plant site. Some companies have one PCWP facility while others have more than 10 facilities manufacturing different PCWP products using a variety of equipment

[8] The final action is not a "major rule" as defined by 5 U.S.C. 804(2), therefore, the effective date of the final rule is the promulgation date as specified in CAA section 112(d)(10).

configurations. The EPA understands that companies with numerous PCWP facilities need time for corporate coordination of IT programming resources across multiple uniquely configured plant sites, while companies with fewer facilities have more-limited environmental staff that are sometimes shared across two or three PCWP facilities to oversee reprogramming. The EPA has concluded that 1 year following the effective date of the final amendments is the most expeditious compliance period practicable for existing PCWP affected sources to make the DAS adjustments needed to demonstrate compliance with the revised requirements during startup and shutdown periods and to transition to electronic reporting. All existing affected facilities will have to continue to meet the current requirements of the NESHAP until the applicable compliance date of the amended rule. Affected sources that commence construction or reconstruction after September 6, 2019 (the publication date of the proposed rulemaking) must comply with all requirements of the subpart, including the final amendments, no later than the effective date of the final rule or upon initial startup, whichever is later.

Regarding the compliance timeline for semiannual reporting, the EPA received comments requesting that the new requirements come into effect at the beginning of a semiannual reporting period, and not in the middle of a reporting period to avoid two different reports being prepared. The EPA recognizes that there can be a transitional compliance period because of the way the effective date of the final PCWP rule is set as the date of publication of the final **Federal Register** document. During this transitional period for existing sources, the previously promulgated rule requirements must be met until the compliance date (*e.g.,* compliance with the SSM plan), and then the newly promulgated requirements must be met thereafter. The EPA anticipates that this transitional semiannual reporting period will occur before the PCWP semiannual electronic reporting spreadsheet is required to be used. To ensure this, we have revised the final rule to specify use of the semiannual reporting template for the first full reporting period after it has been available on the CEDRI website for 1 year.

Regarding the compliance timeline for repeat emissions testing, the compliance dates are included in the final rule as proposed. No comments were received regarding the compliance dates for repeat emissions testing. As proposed, the first of the repeat performance tests must be conducted within 3 years after August 13, 2020, or within 60 months following the previous performance test, whichever is later.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

As noted in the preamble to the proposed amendments, the EPA identified 230 facilities that are operating and subject to the PCWP NESHAP. This includes 109 facilities manufacturing one or more PCWP products (*e.g.,* plywood, veneer, particleboard, OSB, hardboard, fiberboard, MDF, engineered wood products) and 121 facilities that produce kiln-dried lumber. Sixteen facilities produce PCWP products and kiln-dried lumber. Information on operational facilities is included in the *Technology Review for the Plywood and Composite Wood Products NESHAP,* available as Docket Item No. EPA–HQ–OAR–2016–0243–0189. In addition, the EPA is aware of 13 greenfield facilities (four PCWP and nine kiln-dried lumber mills) that recently commenced construction as major sources of HAP emissions. The EPA is projecting that two new OSB mills will be constructed as major sources within the next 5 years, and that existing facilities will add or replace process units during this same time frame. More details on our projections of new sources are available in *Projections of the Number of New and Reconstructed Sources for the Subpart DDDD Technology Review,* available as Docket Item No. EPA–HQ–OAR–2016–0243–0182.

B. What are the air quality impacts?

The nationwide baseline HAP emissions from the 230 facilities in the PCWP source category are estimated to be 7,600 tpy. Emissions of the six compounds defined as "total HAP" in the PCWP NESHAP (acetaldehyde, acrolein, formaldehyde, methanol, phenol, and propionaldehyde) make up 96 percent of the nationwide emissions. The amendments include removal of the SSM exemption and addition of repeat emissions testing for controls other than biofilters (which already require repeat tests). Although the EPA is unable to quantify the emission reduction associated with these changes, we expect that emissions will be reduced by requiring facilities to meet the applicable standard during periods of SSM and that the repeat emissions testing requirements will encourage operation of add-on controls to achieve optimum performance. The EPA is not finalizing other revisions to the emission limits that would impact emissions, so there are no quantifiable air quality impacts resulting from the final amendments.

C. What are the cost impacts?

No capital costs are estimated to be incurred to comply with the final amendments. The costs associated with the final amendments are related to recordkeeping and reporting labor costs and repeat performance testing. Because repeat performance testing is required every 5 years, costs are estimated and summarized over a 5-year period. The nationwide cost of the final amendments is estimated to include a one-time cost of $1.3 million for facilities to review the revised rule and make record systems adjustments and a cost of $3.5 million every 5 years for repeat emissions testing. These costs are in 2018 dollars.

Another metric for presenting the one-time costs is as a present value (PV), which is a technique that converts a stream of costs over time into a one-time estimate for the present year or other year. The EPA estimates that the PV of costs for these final amendments is $5.6 million at a discount rate of 7 percent and $6.9 million at a discount rate of 3 percent. In addition, the EPA presents these costs as an equivalent annualized value (EAV) in order to provide an estimate of annual costs consistent with the PV. The EAV for these final amendments is estimated to be $0.9 million at a discount rate of 7 percent and $1.0 million at a discount rate of 3 percent. The PV and EAV cost estimates are in 2016 dollars, in part, to conform to Executive Order 13771 requirements. These estimates have not changed since the proposal. For further information on the costs associated with the amendments, see the memorandum, *Cost, Environmental, and Energy Impacts of Regulatory Options for Subpart DDDD,* Docket Item No. EPA–HQ–OAR–2016–0243–0184, and the memorandum, *Economic Impact and Small Business Analysis for the Proposed Plywood and Composite Wood Products Risk and Technology Review (RTR) NESHAP,* Docket Item No. EPA–HQ–OAR–2016–0243–0185.

D. What are the economic impacts?

The EPA estimated that none of the ultimate parent owners affected by the proposed amendments would incur annualized costs of 1.0 percent or greater of their revenues, and that estimate has not changed since proposal. Thus, these economic impacts are low for affected companies and the

industries impacted by this action, and there will not be substantial impacts in the markets for affected products. For more information on the economic impact analysis conducted for the proposal, see the memorandum titled *Economic Impact and Small Business Analysis for the Proposed Plywood and Composite Wood Risk and Technology Review (RTR) NESHAP,* Docket Item No. EPA–HQ–OAR–2016–0243–0185.

E. What are the benefits?

The EPA is not finalizing changes to emissions limits, except to the extent necessary to make them applicable during SSM periods and to establish work practice requirements for certain startup and shutdown periods. The EPA estimates the final amendments (*i.e.,* changes to SSM, recordkeeping, reporting, and monitoring) are not economically significant. Because these amendments are not considered economically significant, as defined by Executive Order 12866, and because no emissions reductions were estimated, the EPA did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from each source category across different demographic groups within the populations living near facilities. The results of the PCWP source category demographic analysis indicate that emissions from the source category expose approximately 200,000 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in four of the 11 demographic groups (African American, Native American, below poverty level, and over 25 without a high school diploma) are greater than their respective nationwide percentages.

The methodology and the results of the demographic analysis are presented in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Plywood and Composite Wood Products Source Category,* Docket Item No. EPA–HQ–OAR–2016–0243–0181.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Plywood and Composite Wood Products Source Category in Support of the 2019 Risk and Technology Review Final Rule,* available in the docket for this action, Docket ID No. EPA–HQ–OAR–2016–0243.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Cost

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1984.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information is being collected to assure compliance with 40 CFR part 63, subpart DDDD. The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emissions standards. The information collection activities also include paperwork requirements associated with initial and repeat performance testing and parameter monitoring. The final amendments to the rule eliminate the paperwork requirements associated with the SSM plan and recordkeeping of SSM events and require electronic submittal of performance test results and semiannual compliance reports. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414).

Respondents/affected entities: Owners or operators of facilities subject to 40 CFR part 63, subpart DDDD, that produce plywood, composite wood products, or kiln-dried lumber.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart DDDD).

Estimated number of respondents: 244 facilities (including existing and new facilities projected to begin reporting during the ICR period).

Frequency of response: The frequency varies depending on the type of response (*e.g.,* initial notification, semiannual compliance report).

Total estimated burden: 39,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,930,000 (per year), includes $2,365,000 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if

the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. Of the 69 ultimate parent entities that are subject to the rule, 28 are small according to the Small Business Administration's small business size standards and standards regarding other entities (*e.g.,* federally recognized tribes). None of the affected 28 small entities have annualized costs of 1 percent or greater of sales. The EPA has, therefore, concluded that this action will not have a significant impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. No tribal governments own facilities that are impacted by the proposed changes to the NESHAP. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are discussed in sections III and IV of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Plywood and Composite Wood Products Source Category in Support of the 2019 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA is finalizing the use of the standards currently listed in Table 4 of the rule (40 CFR part 63, subpart DDDD). The EPA is amending 40 CFR 63.14 to incorporate by reference EPA Method 0011 for measurement of formaldehyde. Method 0011 is applicable to the determination of destruction and removal efficiency of analytes including formaldehyde and other compounds. Pollutants withdrawn isokinetically from the emission source and are collected in aqueous acidic 2,4-dinitrophenylhydrazine. Formaldehyde present in the emission stream reacts to form a derivative that extracted, solvent-exchanged, concentrated, and then analyzed by high performance liquid chromatography. The SW–846 Method 0011 (Revision 0, December 1996) is available in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW–846. This method was included in the PCWP rule when it was promulgated in 2004 and is reasonably available from the EPA at *https://www.epa.gov/hw-sw846/sw-846-compendium.* Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

The following standards, referenced in the regulatory text, are already approved for incorporation by reference at their respective locations: NCASI Method CI/WP–98.01; NCASI Method IM/CAN/WP–99.02; NCASI Method ISS/FP–A105.01; ASTM D6348–03.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A.6 of the preamble to the proposed amendments (84 FR 47074, September 6, 2019) and the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Plywood and Composite Wood Products Source Category,* Docket Item No. EPA–HQ–OAR–2016–0243–0181.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 63 is amended as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 63.14 is amended by redesignating paragraphs (n)(8) through (28) as (n)(9) through (29) and adding new paragraph (n)(8) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(n) * * *

(8) SW–846–0011, Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources, Revision 0, December 1996, in EPA Publication No. SW–846, Test Methods

for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition, IBR approved for table 4 to subpart DDDD.

* * * * *

Subpart DDDD—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

■ 3. Section 63.2233 is amended by revising paragraphs (a)(1) and (2) and (b) to read as follows:

§ 63.2233 When do I have to comply with this subpart?

(a) * * *

(1) If the initial startup of your affected source is before September 28, 2004, then you must comply with the compliance options, operating requirements, and work practice requirements for new and reconstructed sources in this subpart no later than September 28, 2004, except as otherwise specified in §§ 63.2250, 63.2280(b) and (d), 63.2281(b)(6), and 63.2282(a)(2) and Tables 3, 6, 7, 8, 9, and 10 to this subpart.

(2) If the initial startup of your affected source is after September 28, 2004, then you must comply with the compliance options, operating requirements, and work practice requirements for new and reconstructed sources in this subpart upon initial startup of your affected source, except as otherwise specified in §§ 63.2250, 63.2280(b) and (d), 63.2281(b)(6), and 63.2282(a)(2) and Tables 3, 6, 7, 8, 9, and 10 to this subpart.

(b) If you have an existing affected source, you must comply with the compliance options, operating requirements, and work practice requirements for existing sources no later than October 1, 2007, except as otherwise specified in §§ 63.2240(c)(2)(vi)(A), 63.2250, 63.2280(b) and (d), 63.2281(b)(6) and (c)(4), and 63.2282(a)(2) and Tables 3, 6, 7, 8, 9, and 10 to this subpart.

* * * * *

■ 4. Section 63.2240 is amended by revising paragraph (c)(2)(vi)(A) to read as follows:

§ 63.2240 What are the compliance options and operating requirements and how must I meet them?

* * * * *

(c) * * *

(2) * * *

(vi) * * *

(A) Before August 13, 2021, emissions during periods of startup, shutdown, and malfunction as described in the startup, shutdown, and malfunction plan (SSMP). On and after August 13, 2021, emissions during safety-related shutdowns, pressurized refiner startups and shutdowns, or startup and shutdown of direct-fired softwood veneer dryer gas-fired burners.

* * * * *

■ 5. Section 63.2250 is amended by:

■ a. Adding two sentences to the end of paragraph (a);

■ b. Revising paragraphs (b) and (c); and

■ c. Adding paragraphs (e) through (g).

The revisions and additions read as follows:

§ 63.2250 What are the general requirements?

(a) * * * For any affected source that commences construction or reconstruction after September 6, 2019, this paragraph (a) does not apply on and after August 13, 2020 or initial startup of the affected source, whichever is later. For all other affected sources, this paragraph (a) does not apply on and after August 13, 2021.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment according to the provisions in § 63.6(e)(1)(i). For any affected source that commences construction or reconstruction after September 6, 2019, this paragraph (b) does not apply on and after August 13, 2020 or initial startup of the affected source, whichever is later. For all other affected sources, this paragraph (b) does not apply on and after August 13, 2021.

(c) You must develop a written SSMP according to the provisions in § 63.6(e)(3). For any affected source that commences construction or reconstruction after September 6, 2019, this paragraph (c) does not apply on and after August 13, 2020 or initial startup of the affected source, whichever is later. For all other affected sources, this paragraph (c) does not apply on and after August 13, 2021.

* * * * *

(e) You must be in compliance with the provisions of subpart A of this part, except as noted in Table 10 to this subpart.

(f) Upon August 13, 2020 or initial startup of the affected source, whichever is later, for affected sources that commenced construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources, you must be in compliance with the compliance options, operating requirements, and the work practice requirements in this subpart when the process unit(s) subject to the compliance options, operating requirements, and work practice requirements are operating, except as specified in paragraphs (f)(1) through (6) of this section.

(1) Prior to process unit initial startup.

(2) During safety-related shutdowns conducted according to the work practice requirement in Table 3 to this subpart.

(3) During pressurized refiner startup and shutdown according to the work practice requirement in Table 3 to this subpart.

(4) During startup and shutdown of direct-fired softwood veneer dryer gas-fired burners according to the work practice requirement in Table 3 to this subpart.

(5) You must minimize the length of time when compliance options and operating requirements in this subpart are not met due to the conditions in paragraphs (f)(2) and (4) of this section.

(6) The applicable standard during each of the operating conditions specified in paragraphs (f)(2) through (4) of this section are the work practice requirements in Table 3 to this subpart for safety-related shutdowns (row 6), pressurized refiner startup and shutdown (row 7), and direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners (row 8). The otherwise applicable compliance options, operating requirements, and work practice requirements (in rows 1 through 5 of Table 3 to this subpart) do not apply during the operating conditions specified in paragraphs (f)(2) through (4) of this section.

(g) For affected sources that commenced construction or reconstruction after September 6, 2019, and for all other affected sources on and after August 13, 2021, you must always operate and maintain your affected source, including air pollution control and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 6. Section 63.2252 is revised to read as follows:

§ 63.2252 What are the requirements for process units that have no control or work practice requirements?

For process units not subject to the compliance options or work practice requirements specified in § 63.2240 (including, but not limited to, lumber kilns), you are not required to comply with the compliance options, work practice requirements, performance testing, monitoring, and recordkeeping or reporting requirements of this subpart, or any other requirements in subpart A of this part, except for the initial notification requirements in § 63.9(b).

■ 7. Section 63.2262 is amended by revising paragraphs (a), (b), (m)(1), and (n)(1) to read as follows:

§ 63.2262 How do I conduct performance tests and establish operating requirements?

(a) *Testing procedures.* You must conduct each performance test according to the requirements in paragraphs (b) through (o) of this section and according to the methods specified in Table 4 to this subpart.

(b) *Periods when performance tests must be conducted.* You must conduct each performance test based on representative performance (*i.e.,* performance based on representative operating conditions as defined in § 63.2292) of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must describe representative operating conditions in your performance test report for the process and control systems and explain why they are representative. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions are representative. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(m) * * *

(1) During the performance test, you must continuously monitor the biofilter bed temperature during each of the required 1-hour test runs. To monitor biofilter bed temperature, you may use multiple thermocouples in representative locations throughout the biofilter bed and calculate the average biofilter bed temperature across these thermocouples prior to reducing the temperature data to 15-minute averages for purposes of establishing biofilter bed temperature limits. The biofilter bed temperature range must be established as the temperature values 10 percent below the minimum and 10 percent (not to exceed 8° F) above the maximum 15-minute biofilter bed temperatures monitored during the three test runs. You may base your biofilter bed temperature range on values recorded during previous performance tests provided that the data used to establish the temperature ranges have been obtained using the test methods required in this subpart. If you use data from previous performance tests, you must certify that the biofilter and associated process unit(s) have not been modified subsequent to the date of the performance tests. Replacement of the biofilter media with the same type of material is not considered a modification of the biofilter for purposes of this section.

* * * * *

(n) * * *

(1) During the performance test, you must identify and document the process unit controlling parameter(s) that affect total HAP emissions during the three-run performance test. The controlling parameters you identify must coincide with the representative operating conditions you describe according to paragraph (b) of this section. For each parameter, you must specify appropriate monitoring methods, monitoring frequencies, and for continuously monitored parameters, averaging times not to exceed 24 hours. The operating limit for each controlling parameter must then be established as the minimum, maximum, range, or average (as appropriate depending on the parameter) recorded during the performance test. Multiple three-run performance tests may be conducted to establish a range of parameter values under different operating conditions.

* * * * *

■ 8. Section 63.2269 is amended by revising paragraphs (b)(4) and (5) to read as follows:

§ 63.2269 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(b) * * *

(4) Validate the temperature sensor's reading at least semiannually using the requirements of paragraph (b)(4)(i), (ii), (iii), (iv), or (v) of this section:

(i) Compare measured readings to a National Institute of Standards and Technology (NIST) traceable temperature measurement device or simulate a typical operating temperature using a NIST traceable temperature simulation device. When the temperature measurement device method is used, the sensor of the NIST traceable calibrated device must be placed as close as practicable to the process sensor, and both devices must be subjected to the same environmental conditions. The accuracy of the temperature measured must be 2.5 percent of the temperature measured by the NIST traceable device or 5 °F, whichever is greater.

(ii) Follow applicable procedures in the thermocouple manufacturer owner's manual.

(iii) Request thermocouple manufacturer to certify or re-certify electromotive force (electrical properties) of the thermocouple.

(iv) Replace thermocouple with a new certified thermocouple in lieu of validation.

(v) Permanently install a redundant temperature sensor as close as practicable to the process temperature sensor. The sensors must yield a reading within 30 °F of each other for thermal oxidizers and catalytic oxidizers; within 5 °F of each other for biofilters; and within 20 °F of each other for dry rotary dryers.

(5) Conduct validation checks using the procedures in paragraph (b)(4) of this section any time the sensor exceeds the manufacturer's specified maximum operating temperature range or install a new temperature sensor.

* * * * *

■ 9. Section 63.2270 is amended by revising paragraph (c) to read as follows:

§ 63.2270 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities or data recorded during periods of safety-related shutdown, pressurized refiner startup or shutdown, startup and shutdown of direct-fired softwood veneer dryer gas-fired burners, or control device downtime covered in any approved routine control device maintenance exemption in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control system.

* * * * *

■ 10. Section 63.2271 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Removing and reserving paragraph (b)(2); and

■ c. Adding paragraph (b)(4).

The revisions and additions read as follows:

§ 63.2271 How do I demonstrate continuous compliance with the compliance options, operating requirements, and work practice requirements?

* * * * *

(b) You must report each instance in which you did not meet each compliance option, operating requirement, and work practice requirement in Tables 7 and 8 to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction and periods of control device maintenance specified in paragraphs (b)(1) through (4) of this section. These instances are deviations from the compliance options, operating requirements, and work practice requirements in this subpart. These deviations must be reported according to the requirements in § 63.2281.

* * * * *

(4) Instances of safety-related shutdown, pressurized refiner startup and shutdown, and startup and shutdown of direct-fired softwood veneer dryer gas-fired burners subject to the work practice requirements in Table 3 to this subpart (rows 6 through 8) must be reported as required in § 63.2281(c)(4). Instances when the work practice requirements in Table 3 to this subpart (rows 6 through 8) are used are not considered to be deviations from (or violations of) the otherwise applicable compliance options, operating requirements and work practice requirements (in rows 1 through 5 of Table 3 to this subpart) as long as you do not exceed the minimum amount of time necessary for these events.

■ 11. Section 63.2280 is amended by revising paragraphs (b), (d) introductory text, and (d)(2) to read as follows:

§ 63.2280 What notifications must I submit and when?

* * * * *

(b) You must submit an Initial Notification no later than 120 calendar days after September 28, 2004, or after initial startup, whichever is later, as specified in § 63.9(b)(2). Initial Notifications required to be submitted after August 13, 2020 for affected sources that commence construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources submitting initial notifications required in § 63.9(b) must be submitted following the procedure specified in § 63.2281(h), (k), and (l).

* * * * *

(d) If you are required to conduct a performance test, design evaluation, or other compliance demonstration as specified in Tables 4, 5, and 6 to this subpart, or a repeat performance test as specified in Table 7 to this subpart, you must submit a Notification of Compliance Status as specified in § 63.9(h)(2)(ii). After August 13, 2020 for affected sources that commence construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.2281(h), (k), and (l).

* * * * *

(2) For each compliance demonstration required in Tables 5, 6, and 7 to this subpart that includes a performance test conducted according to the requirements in Table 4 to this subpart, you must submit the Notification of Compliance Status, including a summary of the performance test results, before the close of business on the 60th calendar day following the completion of the performance test.

* * * * *

■ 12. Section 63.2281 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Adding paragraph (b)(6);

■ c. Revising paragraph (c)(4);

■ d. Removing and reserving paragraph (c)(6);

■ e. Revising paragraph (d)(2);

■ f. Revising the first sentence of paragraph (e) introductory text;

■ g. Removing and reserving paragraph (e)(1);

■ h. Revising paragraph (e)(2);

■ i. Adding paragraphs (e)(12) and (13); and

■ j. Adding paragraphs (h) through (l).

The revisions and additions read as follows:

§ 63.2281 What reports must I submit and when?

* * * * *

(b) Unless the EPA Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 9 to this subpart and as specified in paragraphs (b)(1) through (6) of this section.

* * * * *

(6) After August 13, 2020 for affected sources that commenced construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources, submit all subsequent reports following the procedure specified in paragraphs (h), (k) and (l) of this section.

(c) * * *

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information specified in § 63.10(d)(5)(i) before August 13, 2021 for affected sources that commenced construction or reconstruction before September 6, 2019. After August 13, 2020 for affected sources that commenced construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources, the compliance report must include the number of instances and total amount of time during the reporting period in which each of the startup/shutdown work practice requirements in Table 3 to this subpart (rows 6 through 8) is used in place of the otherwise applicable compliance options, operating requirements, and work practice requirements (in Table 3 to this subpart rows 1 through 5). If a startup/shutdown work practice in Table 3 to this subpart (rows 6 through 8) is used for more than a total of 100 hours during the semiannual reporting period, you must report the date, time and duration of each instance when that startup/shutdown work practice was used.

* * * * *

(d) * * *

(2) Information on the date, time, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from a compliance option, operating requirement, or work practice requirement occurring at an affected source where you are using a CMS to comply with the compliance options, operating requirements, or work practice requirements in this subpart, you must include the information in paragraphs (c)(1) through (6) and (e)(1) through (13) of this section. * * *

* * * * *

(2) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(12) For any failure to meet a compliance option in § 63.2240, including the compliance options in Table 1A or 1B to this subpart or the emissions averaging compliance option, provide an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of

the method used to estimate the emissions.

(13) The total operating time of each affected source during the reporting period.

* * * * *

(h) If you are required to submit reports following the procedure specified in this paragraph (h), you must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. For semiannual compliance reports required in this section and Table 9 (row 1) to this subpart, you must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart once the reporting template has been available on the CEDRI website for 1 year. The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. You must begin submitting all subsequent reports via CEDRI in the first full reporting period after the report template for this subpart has been available in CEDRI for 1 year. Initial Notifications developed according to § 63.2280(b) and Notifications of Compliance Status developed according to § 63.2280(d) may be uploaded in a user-specified format such as portable document format (PDF). The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(i) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (i)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential Business Information (CBI).* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you claim some of the information submitted under this paragraph (i) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (i). All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(j) Within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (j)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential Business Information (CBI).* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if you claim some of the information submitted under this paragraph (j) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the

file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (j). All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(k) If you are required to electronically submit a report or notification through CEDRI in the EPA's CDX by this subpart, you may assert a claim of EPA system outage for failure to timely comply with the electronic submittal reporting requirement in this section. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (k)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the electronic submittal requirement in this subpart at the time of the notification, the date you submitted the report.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(l) If you are required to electronically submit a report through CEDRI in the EPA's CDX by this subpart, you may assert a claim of *force majeure* for failure to timely comply with the electronic submittal requirement in this section. To assert a claim of *force majeure,* you must meet the requirements outlined in paragraphs (l)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the electronic submittal requirement in this subpart at the time of the notification, the date you submitted the report.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

■ 13. Section 63.2282 is amended by revising paragraphs (a)(2) and (c)(2) and adding paragraph (f) to read as follows:

§ 63.2282 What records must I keep?

(a) * * *

(2) Before August 13, 2021, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction for affected sources that commenced construction or reconstruction before September 6, 2019. After August 13, 2021] for affected sources that commenced construction or reconstruction after September 6, 2019, and on and after August 13, 2021 for all other affected sources, the records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions, specified in paragraphs (a)(2)(i) through (iv) of this section.

(i) Record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to the standard applicable to startup and shutdown.

(ii) In the event that an affected unit fails to meet an applicable standard, record the number of failures; for each failure, record the date, time, cause and duration of each failure.

(iii) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, and the following information:

(A) For any failure to meet a compliance option in § 63.2240, including the compliance options in Table 1A or 1B to this subpart or the emissions averaging compliance option, record an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(B) For each failure to meet an operating requirement in Table 2 to this subpart or work practice requirement in Table 3 to this subpart, maintain sufficient information to estimate the quantity of each regulated pollutant emitted over the emission limit. This information must be sufficient to provide a reliable emissions estimate if requested by the Administrator.

(iv) Record actions taken to minimize emissions in accordance with § 63.2250(g), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(c) * * *

(2) Previous (*i.e.,* superseded) versions of the performance evaluation plan, with the program of corrective action included in the plan required under § 63.8(d)(2).

* * * * *

(f) You must keep the written CMS quality control procedures required by § 63.8(d)(2) on record for the life of the

affected source or until the affected source is no longer subject to the provisions of this subpart, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you must keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

■ 14. Section 63.2283 is amended by adding paragraph (d) to read as follows:

§ 63.2283 In what form and how long must I keep my records?

* * * * *

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 15. Section 63.2290 is revised to read as follows:

§ 63.2290 What parts of the general provisions apply to me?

Table 10 to this subpart shows which parts of the general provisions in §§ 63.1 through 63.16 apply to you.

■ 16. Section 63.2291 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.2291 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 17. Section 63.2292 is amended by:

■ a. Revising the definitions of ''MSF,'' ''Non-HAP coating,'' and ''Representative operating conditions'';

■ b. Adding the definition of ''Safety-related shutdown'' in alphabetical order; and

■ c. Removing the definition of ''Startup, shutdown, and malfunction plan.''

The revisions and addition read as follows:

§ 63.2292 What definitions apply to this subpart?

* * * * *

MSF means thousand square feet (92.9 square meters). Square footage of panels is usually measured on a thickness basis, such as ⅜-inch, to define the total volume of panels. Equation 3 of § 63.2262(j) shows how to convert from one thickness basis to another.

* * * * *

Non-HAP coating means a coating with HAP contents below 0.1 percent by mass for Occupational Safety and Health Administration-defined carcinogens as specified in section A.6.4 of appendix A to 29 CFR 1910.1200, and below 1.0 percent by mass for other HAP compounds.

* * * * *

Representative operating conditions means operation of a process unit during performance testing under the conditions that the process unit will typically be operating in the future, including use of a representative range of materials (*e.g.,* wood material of a typical species mix and moisture content or typical resin formulation) and representative operating temperature range. Representative operating conditions exclude periods of startup and shutdown.

* * * * *

Safety-related shutdown means an unscheduled shutdown of a process unit subject to a compliance option in Table 1B to this subpart (or a process unit with HAP control under an emissions averaging plan developed according to § 63.2240(c)) during which time emissions from the process unit cannot be safely routed to the control system in place to meet the compliance options or operating requirements in this subpart without imminent danger to the process, control system, or system operator.

* * * * *

■ 18. Table 2 to subpart DDDD is revised to read as follows:

TABLE 2 TO SUBPART DDDD OF PART 63—OPERATING REQUIREMENTS

If you operate a(n) . . .	You must . . .	Or you must . . .
(1) Thermal oxidizer	Maintain the 3-hour block average firebox temperature above the minimum temperature established during the performance test.	Maintain the 3-hour block average THC concentration [1] in the thermal oxidizer exhaust below the maximum concentration established during the performance test.
(2) Catalytic oxidizer	Maintain the 3-hour block average catalytic oxidizer temperature above the minimum temperature established during the performance test; AND check the activity level of a representative sample of the catalyst annually except as specified in footnote "2" to this table.	Maintain the 3-hour block average THC concentration [1] in the catalytic oxidizer exhaust below the maximum concentration established during the performance test.
(3) Biofilter	Maintain the 24-hour block biofilter bed temperature within the range established according to § 63.2262(m).	Maintain the 24-hour block average THC concentration [1] in the biofilter exhaust below the maximum concentration established during the performance test.
(4) Control device other than a thermal oxidizer, catalytic oxidizer, or biofilter.	Petition the EPA Administrator for site-specific operating parameter(s) to be established during the performance test and maintain the average operating parameter(s) within the range(s) established during the performance test.	Maintain the 3-hour block average THC concentration [1] in the control device exhaust below the maximum concentration established during the performance test.

TABLE 2 TO SUBPART DDDD OF PART 63—OPERATING REQUIREMENTS—Continued

If you operate a(n) . . .	You must . . .	Or you must . . .
(5) Process unit that meets a compliance option in Table 1A to this subpart, or a process unit that generates debits in an emissions average without the use of a control device.	Maintain on a daily basis the process unit controlling operating parameter(s) within the ranges established during the performance test according to § 63.2262(n).	Maintain the 3-hour block average THC concentration [1] in the process unit exhaust below the maximum concentration established during the performance test.

[1] You may choose to subtract methane from THC measurements.
[2] You may forego the annual catalyst activity check during the calendar year when a performance test is conducted according to Table 4 to this subpart.

■ 19. Table 3 to subpart DDDD is revised to read as follows:

TABLE 3 TO SUBPART DDDD OF PART 63—WORK PRACTICE REQUIREMENTS

For the following process units at existing or new affected sources . . .	You must . . .
(1) Dry rotary dryers	Process furnish with a 24-hour block average inlet moisture content of less than or equal to 30 percent (by weight, dry basis); AND operate with a 24-hour block average inlet dryer temperature of less than or equal to 600 °F.
(2) Hardwood veneer dryers	Process less than 30 volume percent softwood species on an annual basis.
(3) Softwood veneer dryers	Minimize fugitive emissions from the dryer doors through (proper maintenance procedures) and the green end of the dryers (through proper balancing of the heated zone exhausts).
(4) Veneer redryers	Process veneer that has been previously dried, such that the 24-hour block average inlet moisture content of the veneer is less than or equal to 25 percent (by weight, dry basis).
(5) Group 1 miscellaneous coating operations	Use non-HAP coatings as defined in § 63.2292.
(6) Process units and control systems undergoing safety-related shutdown on and after August 13, 2021 except as noted in footnote "1" to this table.	Follow documented site-specific procedures such as use of automated controls or other measures that you have developed to protect workers and equipment to ensure that the flow of raw materials (such as furnish or resin) and fuel or process heat (as applicable) ceases and that material is removed from the process unit(s) as expeditiously as possible given the system design to reduce air emissions.
(7) Pressurized refiners undergoing startup or shutdown on and after August 13, 2021 except as noted in footnote "1" to this table.	Route exhaust gases from the pressurized refiner to its dryer control system no later than 15 minutes after wood is fed to the pressurized refiner during startup. Stop wood flow into the pressurized refiner no more than 15 minutes after wood fiber and exhaust gases from the pressurized refiner stop being routed to the dryer during shutdown.
(8) Direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners on and after August 13, 2021 except as noted in footnote "1" to this table.	Cease feeding green veneer into the softwood veneer dryer and minimize the amount of time direct gas-fired softwood veneer dryers are vented to the atmosphere due to the conditions described in § 63.2250(d).

[1] New or reconstructed affected sources that commenced construction or reconstruction after September 6, 2019 must comply with this requirement beginning on August 13, 2020 or upon initial startup, whichever is later.

■ 20. Table 4 to subpart DDDD is revised to read as follows:

TABLE 4 TO SUBPART DDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

For . . .	You must . . .	Using . . .
(1) each process unit subject to a compliance option in table 1A or 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	select sampling port's location and the number of traverse ports.	Method 1 or 1A of 40 CFR part 60, appendix A–1 (as appropriate).
(2) each process unit subject to a compliance option in table 1A or 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	determine velocity and volumetric flow rate.	Method 2 in addition to Method 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to 40 CFR part 60 (as appropriate).
(3) each process unit subject to a compliance option in table 1A or 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	conduct gas molecular weight analysis.	Method 3, 3A, or 3B in appendix A–2 to 40 CFR part 60 (as appropriate).
(4) each process unit subject to a compliance option in table 1A or 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	measure moisture content of the stack gas.	Method 4 in appendix A–3 to 40 CFR part 60; OR Method 320 in appendix A to this part; OR ASTM D6348–03 (IBR, see § 63.14).
(5) each process unit subject to a compliance option in table 1B to this subpart for which you choose to demonstrate compliance using a total HAP as THC compliance option.	measure emissions of total HAP as THC.	Method 25A in appendix A–7 to 40 CFR part 60. You may measure emissions of methane using EPA Method 18 in appendix A–6 to 40 CFR part 60 and subtract the methane emissions from the emissions of total HAP as THC.

TABLE 4 TO SUBPART DDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

For . . .	You must . . .	Using . . .
(6) each process unit subject to a compliance option in table 1A to this subpart; OR for each process unit used in calculation of an emissions average under § 63.2240(c).	measure emissions of total HAP (as defined in § 63.2292).	Method 320 in appendix A to this part; OR the NCASI Method IM/CAN/WP–99.02 (IBR, see § 63.14); OR the NCASI Method ISS/FP–A105.01 (IBR, see § 63.14); OR ASTM D6348–03 (IBR, see § 63.14) provided that percent R as determined in Annex A5 of ASTM D6348–03 is equal or greater than 70 percent and less than or equal to 130 percent.
(7) each process unit subject to a compliance option in table 1B to this subpart for which you choose to demonstrate compliance using a methanol compliance option.	measure emissions of methanol.	Method 308 in appendix A to this part; OR Method 320 in appendix A to this part; OR the NCASI Method CI/WP–98.01 (IBR, see § 63.14); OR the NCASI Method IM/CAN/WP–99.02 (IBR, see § 63.14); OR the NCASI Method ISS/FP–A105.01 (IBR, see § 63.14).
(8) each process unit subject to a compliance option in table 1B to this subpart for which you choose to demonstrate compliance using a formaldehyde compliance option.	measure emissions of formaldehyde.	Method 316 in appendix A to this part; OR Method 320 in appendix A to this part; OR Method 0011 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW–846) for formaldehyde (IBR, see § 63.14); OR the NCASI Method CI/WP–98.01 (IBR, see § 63.14); OR the NCASI Method IM/CAN/WP–99.02 (IBR, see § 63.14); OR the NCASI Method ISS/FP–A105.01 (IBR, see § 63.14).
(9) each reconstituted wood product press at a new or existing affected source or reconstituted wood product board cooler at a new affected source subject to a compliance option in table 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	meet the design specifications included in the definition of wood products enclosure in § 63.2292; or determine the percent capture efficiency of the enclosure directing emissions to an add-on control device.	Methods 204 and 204A through 204F of 40 CFR part 51, appendix M, to determine capture efficiency (except for wood products enclosures as defined in § 63.2292). Enclosures that meet the definition of wood products enclosure or that meet Method 204 requirements for a permanent total enclosure (PTE) are assumed to have a capture efficiency of 100 percent. Enclosures that do not meet either the PTE requirements or design criteria for a wood products enclosure must determine the capture efficiency by constructing a TTE according to the requirements of Method 204 and applying Methods 204A through 204F (as appropriate). As an alternative to Methods 204 and 204A through 204F, you may use the tracer gas method contained in appendix A to this subpart.
(10) each reconstituted wood product press at a new or existing affected source or reconstituted wood product board cooler at a new affected source subject to a compliance option in table 1A to this subpart.	determine the percent capture efficiency.	a TTE and Methods 204 and 204A through 204F (as appropriate) of 40 CFR part 51, appendix M. As an alternative to installing a TTE and using Methods 204 and 204A through 204F, you may use the tracer gas method contained in appendix A to this subpart. Enclosures that meet the design criteria (1) through (4) in the definition of wood products enclosure, or that meet Method 204 requirements for a PTE (except for the criteria specified in section 6.2 of Method 204) are assumed to have a capture efficiency of 100 percent. Measured emissions divided by the capture efficiency provides the emission rate.
(11) each process unit subject to a compliance option in tables 1A and 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	establish the site-specific operating requirements (including the parameter limits or THC concentration limits) in table 2 to this subpart.	data from the parameter monitoring system or THC CEMS and the applicable performance test method(s).

■ 21. Table 6 to subpart DDDD is revised to read as follows:

TABLE 6 TO SUBPART DDDD OF PART 63—INITIAL COMPLIANCE DEMONSTRATIONS FOR WORK PRACTICE REQUIREMENTS

For each . . .	For the following work practice requirements . . .	You have demonstrated initial compliance if . . .
(1) Dry rotary dryer	Process furnish with an inlet moisture content less than or equal to 30 percent (by weight, dry basis) AND operate with an inlet dryer temperature of less than or equal to 600 °F.	You meet the work practice requirement AND you submit a signed statement with the Notification of Compliance Status that the dryer meets the criteria of a "dry rotary dryer" AND you have a record of the inlet moisture content and inlet dryer temperature (as required in § 63.2263).

TABLE 6 TO SUBPART DDDD OF PART 63—INITIAL COMPLIANCE DEMONSTRATIONS FOR WORK PRACTICE REQUIREMENTS—Continued

For each . . .	For the following work practice requirements . . .	You have demonstrated initial compliance if . . .
(2) Hardwood veneer dryer	Process less than 30 volume percent softwood species.	You meet the work practice requirement AND you submit a signed statement with the Notification of Compliance Status that the dryer meets the criteria of a "hardwood veneer dryer" AND you have a record of the percentage of softwoods processed in the dryer (as required in § 63.2264).
(3) Softwood veneer dryer	Minimize fugitive emissions from the dryer doors and the green end.	You meet the work practice requirement AND you submit with the Notification of Compliance Status a copy of your plan for minimizing fugitive emissions from the veneer dryer heated zones (as required in § 63.2265).
(4) Veneer redryers	Process veneer with an inlet moisture content of less than or equal to 25 percent (by weight, dry basis).	You meet the work practice requirement AND you submit a signed statement with the Notification of Compliance Status that the dryer operates only as a redryer AND you have a record of the veneer inlet moisture content of the veneer processed in the redryer (as required in § 63.2266).
(5) Group 1 miscellaneous coating operations.	Use non-HAP coatings as defined in § 63.2292	You meet the work practice requirement AND you submit a signed statement with the Notification of Compliance Status that you are using non-HAP coatings AND you have a record showing that you are using non-HAP coatings.
(6) Process units and control systems undergoing safety-related shutdown on and after August 13, 2021, except as noted in footnote "1" to this table.	Follow documented site-specific procedures to ensure the flow of raw materials and fuel or process heat ceases and that material is removed from the process unit(s) as expeditiously as possible given the system design to reduce air emissions.	You meet the work practice requirement AND you have a record of safety-related shutdown procedures available for inspection by the delegated authority upon request.
(7) Pressurized refiners undergoing startup or shutdown on and after August 13, 2021, except as noted in footnote "1" to this table.	Route exhaust gases from the pressurized refiner to its dryer control system no later than 15 minutes after wood is fed to the pressurized refiner during startup. Stop wood flow into the pressurized refiner no more than 15 minutes after wood fiber and exhaust gases from the pressurized refiner stop being routed to the dryer during shutdown.	You meet the work practice requirement AND you have a record of pressurized refiner startup and shutdown procedures available for inspection by the delegated authority upon request.
(8) Direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners on and after August 13, 2021, except as noted in footnote "1" to this table.	Cease feeding green veneer into the softwood veneer dryer and minimize the amount of time direct gas-fired softwood veneer dryers are vented to the atmosphere due to the conditions described in § 63.2250(d).	You meet the work practice requirement AND you have a record of the procedures for startup and shutdown of softwood veneer dryer gas-fired burners available for inspection by the delegated authority upon request.

[1] New or reconstructed affected sources that commenced construction or reconstruction after September 6, 2019 must comply with this requirement beginning on August 13, 2020 or upon initial startup, whichever is later.

■ 22. Table 7 to subpart DDDD is revised to read as follows:

TABLE 7 TO SUBPART DDDD OF PART 63—CONTINUOUS COMPLIANCE WITH THE COMPLIANCE OPTIONS AND OPERATING REQUIREMENTS

For . . .	For the following compliance options and operating requirements . . .	You must demonstrate continuous compliance by . . .
(1) Each process unit listed in Table 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	Compliance options in Table 1B to this subpart or the emissions averaging compliance option in § 63.2240(c) and the operating requirements in Table 2 to this subpart based on monitoring of operating parameters.	Collecting and recording the operating parameter monitoring system data listed in Table 2 to this subpart for the process unit according to §§ 63.2269(a) through (b) and 63.2270; AND reducing the operating parameter monitoring system data to the specified averages in units of the applicable requirement according to calculations in § 63.2270; AND maintaining the average operating parameter at or above the minimum, at or below the maximum, or within the range (whichever applies) established according to § 63.2262.

TABLE 7 TO SUBPART DDDD OF PART 63—CONTINUOUS COMPLIANCE WITH THE COMPLIANCE OPTIONS AND OPERATING REQUIREMENTS—Continued

For . . .	For the following compliance options and operating requirements . . .	You must demonstrate continuous compliance by . . .
(2) Each process unit listed in Tables 1A and 1B to this subpart or used in calculation of an emissions average under § 63.2240(c).	Compliance options in Tables 1A and 1B to this subpart or the emissions averaging compliance option in § 63.2240(c) and the operating requirements in Table 2 to this subpart based on THC CEMS data.	Collecting and recording the THC monitoring data listed in Table 2 to this subpart for the process unit according to § 63.2269(d); AND reducing the CEMS data to 3-hour block averages according to calculations in § 63.2269(d); AND maintaining the 3-hour block average THC concentration in the exhaust gases less than or equal to the THC concentration established according to § 63.2262.
(3) Each process unit using a biofilter.	Compliance options in Tables 1B to this subpart or the emissions averaging compliance option in § 63.2240(c).	Conducting a repeat performance test using the applicable method(s) specified in Table 4 to this subpart [1] within 2 years following the previous performance test and within 180 days after each replacement of any portion of the biofilter bed media with a different type of media or each replacement of more than 50 percent (by volume) of the biofilter bed media with the same type of media.
(4) Each process unit using a catalytic oxidizer.	Compliance options in Table 1B to this subpart or the emissions averaging compliance option in § 63.2240(c).	Checking the activity level of a representative sample of the catalyst at least annually [2] and taking any necessary corrective action to ensure that the catalyst is performing within its design range.
(5) Each process unit listed in Table 1A to this subpart, or each process unit without a control device used in calculation of an emissions averaging debit under § 63.2240(c).	Compliance options in Table 1A to this subpart or the emissions averaging compliance option in § 63.2240(c) and the operating requirements in Table 2 to this subpart based on monitoring of process unit controlling operating parameters.	Collecting and recording on a daily basis process unit controlling operating parameter data; AND maintaining the operating parameter at or above the minimum, at or below the maximum, or within the range (whichever applies) established according to § 63.2262.
(6) Each Process unit listed in Table 1B to this subpart using a wet control device as the sole means of reducing HAP emissions.	Compliance options in Table 1B to this subpart or the emissions averaging compliance option in § 63.2240(c).	Implementing your plan to address how organic HAP captured in the wastewater from the wet control device is contained or destroyed to minimize re-release to the atmosphere.
(7) Each process unit listed in Table 1B to this subpart using a control device other than a biofilter.	Compliance options in Tables 1B to this subpart	Conducting a repeat performance test using the applicable method(s) specified in Table 4 to this subpart [1] by August 13, 2023 or within 60 months following the previous performance test, whichever is later, and thereafter within 60 months following the previous performance test.

[1] When conducting a repeat performance test, the capture efficiency demonstration required in Table 4 to this subpart, row 9 is not required to be repeated with the repeat emissions test if the capture device is maintained and operated consistent with its design as well as its operation during the previous capture efficiency demonstration conducted according to Table 4 to this subpart, row 9 as specified in § 63.2267.

[2] You may forego the annual catalyst activity check during the calendar year when a performance test is conducted according to Table 4 to this subpart.

■ 23. Table 8 to subpart DDDD is revised to read as follows:

TABLE 8 TO SUBPART DDDD OF PART 63—CONTINUOUS COMPLIANCE WITH THE WORK PRACTICE REQUIREMENTS

For . . .	For the following work practice requirements . . .	You must demonstrate continuous compliance by . . .
(1) Dry rotary dryer	Process furnish with an inlet moisture content less than or equal to 30 percent (by weight, dry basis) AND operate with an inlet dryer temperature of less than or equal to 600 °F.	Maintaining the 24-hour block average inlet furnish moisture content at less than or equal to 30 percent (by weight, dry basis) AND maintaining the 24-hour block average inlet dryer temperature at less than or equal to 600 °F; AND keeping records of the inlet temperature of furnish moisture content and inlet dryer temperature.
(2) Hardwood veneer dryer	Process less than 30 volume percent softwood species.	Maintaining the volume percent softwood species processed below 30 percent AND keeping records of the volume percent softwood species processed.
(3) Softwood veneer dryer	Minimize fugitive emissions from the dryer doors and the green end.	Following (and documenting that you are following) your plan for minimizing fugitive emissions.

TABLE 8 TO SUBPART DDDD OF PART 63—CONTINUOUS COMPLIANCE WITH THE WORK PRACTICE REQUIREMENTS—Continued

For . . .	For the following work practice requirements . . .	You must demonstrate continuous compliance by . . .
(4) Veneer redryers	Process veneer with an inlet moisture content of less than or equal to 25 percent (by weight, dry basis).	Maintaining the 24-hour block average inlet moisture content of the veneer processed at or below of less than or 25 percent AND keeping records of the inlet moisture content of the veneer processed.
(5) Group 1 miscellaneous coating operations.	Use non-HAP coatings as defined in § 63.2292	Continuing to use non-HAP coatings AND keeping records showing that you are using non-HAP coatings.
(6) Process units and control systems undergoing safety-related shutdown on and after August 13, 2021, except as noted in footnote "1" to this table.	Follow documented site-specific procedures to ensure the flow of raw materials and fuel or process heat ceases and that material is removed from the process unit(s) as expeditiously as possible given the system design to reduce air emissions.	Keeping records showing that you are following the work practice requirements during safety-related shutdowns.
(7) Pressurized refiners undergoing startup or shutdown on and after August 13, 2021, except as noted in footnote "1" to this table.	Route exhaust gases from the pressurized refiner to its dryer control system no later than 15 minutes after wood is fed to the pressurized refiner during startup. Stop wood flow into the pressurized refiner no more than 15 minutes after wood fiber and exhaust gases from the pressurized refiner stop being routed to the dryer during shutdown..	Keeping records showing that you are following the work practice requirements during pressurized refiner startup and shutdown events.
(8) Direct-fired softwood veneer dryers undergoing startup or shutdown of gas-fired burners on and after August 13, 2021, except as noted in footnote "1" to this table.	Cease feeding green veneer into the softwood veneer dryer and minimize the amount of time direct gas-fired softwood veneer dryers are vented to the atmosphere due to the conditions described in § 63.2250(d).	Keeping records showing that you are following the work practice requirements while undergoing startup or shutdown of softwood veneer dryer direct gas-fired burners.

[1] New or reconstructed affected sources that commenced construction or reconstruction after September 6, 2019 must comply with this requirement beginning on August 13, 2020 or upon initial startup, whichever is later.

■ 24. Table 9 to subpart DDDD is revised to read as follows:

TABLE 9 TO SUBPART DDDD OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a(n) . . .	The report must contain . . .	You must submit the report . . .
(1) Compliance report	The information in § 63.2281(c) through (g)	Semiannually according to the requirements in § 63.2281(b).
(2) Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP before August 13, 2021.[1]	(i) Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	(ii) The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.
(3) Performance test report	The information required in § 63.7(g)	According to the requirements of § 63.2281(i).
(4) CMS performance evaluation, as required for CEMS under § 63.2269(d)(2).	The information required in § 63.7(g)	According to the requirements of § 63.2281(j).

[1] The requirement for the SSM report in row 2 of this table does not apply for new or reconstructed affected sources that commenced construction or reconstruction after September 6, 2019.

■ 25. Table 10 to subpart DDDD is revised to read as follows:

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes	Yes.
§ 63.2	Definitions	Definitions for standards in this part	Yes	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for standards in this part	Yes	Yes.

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; compliance date; circumvention, fragmentation.	Yes	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Preconstruction review requirements of section 112(i)(1).	Yes	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension; GP apply to area sources that become major.	Yes	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes	Yes.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes	Yes.
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (*e.g.*, 3 years).	Yes	Yes.
§ 63.6(d)	[Reserved].			
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	You must operate and maintain affected source in a manner consistent with safety and good air pollution control practices for minimizing emissions.	Yes	No, see § 63.2250 for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	You must correct malfunctions as soon as practicable after their occurrence.	Yes	No.
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Operation and maintenance requirements are enforceable independent of emissions limitations or other requirements in relevant standards.	Yes	Yes.
§ 63.6(e)(2)	[Reserved].			
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).	Requirement for SSM and SSMP; content of SSMP	Yes	No.
§ 63.6(f)(1)	SSM Exemption	You must comply with emission standards at all times except during SSM.	No. See § 63.2250(a)	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance/Finding of Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes	Yes.
§ 63.6(h)(1)	SSM Exemption	You must comply with opacity and visible emission standards at all times except during SSM.	NA	No.
§ 63.6(h)(2)–(9)	Opacity/Visible Emission (VE) Standards.	Requirements for opacity and visible emission standards.	NA	NA.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes	Yes.
§ 63.6(i)(15)	[Reserved].			
§ 63.6(i)(16)	Compliance Extension	Compliance extension and Administrator's authority	Yes	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with rule.	Yes	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other compliance demonstrations; must conduct 180 days after first subject to rule.	Yes	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes	Yes.
§ 63.7(b)(2)	Notification of Rescheduling.	If have to reschedule performance test, must notify Administrator as soon as practicable.	Yes	Yes.
§ 63.7(c)	Quality Assurance/Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes	Yes.
§ 63.7(e)(1)	Performance Testing	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes	No, see § 63.2262(a)–(b).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes	Yes.

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
§ 63.7(e)(3)	Test Run Duration	Must have three test runs for at least the time specified in the relevant standard; compliance is based on arithmetic mean of three runs; specifies conditions when data from an additional test run can be used.	Yes	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status; keep data for 5 years.	Yes	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance specifications in appendix B of part 60 of this chapter apply.	Yes	Yes.
§ 63.8(a)(3)	[Reserved].			
§ 63.8(a)(4)	Monitoring with Flares	Requirements for flares in § 63.11 apply	NA	NA.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with and good air pollution control practices.	Yes	Yes.
§ 63.8(c)(1)(i)	Operation and Maintenance of CMS.	Must maintain and operate CMS in accordance with § 63.6(e)(1).	Yes	No.
§ 63.8(c)(1)(ii)	Spare Parts for CMS	Must maintain spare parts for routine CMS repairs	Yes	Yes.
§ 63.8(c)(1)(iii)	Requirements to Develop SSMP for CMS.	Must develop and implement SSMP for CMS	Yes	No.
§ 63.8(c)(2)–(3)	Monitoring System Installation.	Must install to get representative emission of parameter measurements; must verify operational status before or at performance test.	Yes	Yes.
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts; COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes	Yes.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) Minimum Procedures.	COMS minimum procedures	NA	NA.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high-level calibration check requirements; out-of-control periods.	Yes	Yes.
§ 63.8(d)(1)–(2)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc..	Yes. Refer to § 63.2269(a)–(c) for CPMS quality control procedures to be included in the quality control program.	Yes. Refer to § 63.2269(a)–(c) for CPMS quality control procedures to be included in the quality control program.
§ 63.8(d)(3)	Written Procedures for CMS.	Must keep quality control plan on record for 5 years. Keep old versions for 5 years after revisions. May incorporate as part of SSMP to avoid duplication..	Yes	No, see § 63.2282(f).
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, for CEMS	Yes, for CEMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes, for CEMS	Yes, for CEMS.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least 4 equally spaced data points; data that can't be used in average; rounding of data.	Yes	Yes.
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes	Yes.
§ 63.9(b)(1)–(2)	Initial Notifications	Submit notification 120 days after effective date; contents of notification.	Yes	Yes.
§ 63.9(b)(3)	[Reserved].			

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
§ 63.9(b)(4)–(5)	Initial Notifications	Submit notification 120 days after effective date; notification of intent to construct/reconstruct; notification of commencement of construct/reconstruct; notification of startup; contents of each.	Yes	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology/lowest achievable emission rate.	Yes	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify EPA Administrator 60 days prior	Yes	Yes.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	Notify EPA Administrator 30 days prior	No	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	Yes	Yes.
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than one source.	Yes	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements; keep all records readily available; keep for 5 years.	Yes	Yes.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Records of occurrence and duration of each startup or shutdown that causes source to exceed emission limitation.	Yes	No, see § 63.2282(a).
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Records of occurrence and duration of each malfunction of operation or air pollution control and monitoring equipment.	Yes	No, see § 63.2282(a) for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Records of maintenance performed on air pollution control and monitoring equipment.	Yes	Yes.
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Records of actions taken during SSM to minimize emissions.	Yes	No.
§ 63.10(b)(2)(vi) and (x)–(xi).	CMS Records	Malfunctions, inoperative, out-of-control	Yes	Yes.
§ 63.10(b)(2)(vii)–(ix)	Records	Measurements to demonstrate compliance with compliance options and operating requirements; performance test, performance evaluation, and visible emission observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes	Yes.
§ 63.10(c)(1)–(6), (9)–(14).	Records	Additional records for CMS	Yes	Yes.
§ 63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No	No.
§ 63.10(c)(15)	Use of SSMP	Use SSMP to satisfy recordkeeping requirements for identification of malfunction, correction action taken, and nature of repairs to CMS.	Yes	No.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	NA	NA.

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART—Continued

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes	Yes.
§ 63.10(d)(5)(i)	Periodic SSM Reports	Contents and submission of periodic SSM reports	Yes	No, see § 63.2281(d)–(e) for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports	Contents and submission of immediate SSM reports	Yes	No.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEM on a unit; written copy of performance evaluation; 3 copies of COMS performance evaluation.	Yes	Yes.
§ 63.10(e)(3)	Reports	Excess emission reports	No	No.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data	NA	NA.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for EPA Administrator to waive	Yes	Yes.
§ 63.11	Control Device and Work Practice Requirements.	Requirements for flares and alternative work practice for equipment leaks.	NA	NA.
§ 63.12	State Authority and Delegations.	State authority to enforce standards	Yes	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes	Yes.
§ 63.15	Availability of Information and Confidentiality.	Public and confidential information	Yes	Yes.
§ 63.16	Performance Track Provisions.	Requirements for Performance Track member facilities.	Yes	Yes.

[1] New or reconstructed affected sources that commenced construction or reconstruction after September 6, 2019 must comply with the requirements in column 5 of this table beginning on August 13, 2020 or upon initial startup, whichever is later.

[FR Doc. 2020–12725 Filed 8–12–20; 8:45 am]

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MASSACHUSETTS NON-REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
* * *	*	*	*	*
Negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry.	Statewide	10/18/2018	8/21/2020 [Insert FEDERAL REGISTER citation].	Negative declaration

[3] To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2020–16725 Filed 8–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0243; FRL–10009–65–OAR]

RIN 2060–AO66

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products Residual Risk and Technology Review

Correction

In rule document 2020–12725 appearing on pages 49434–49469 in the issue of August 13, 2020, make the following correction:

§ 63.2282 [Corrected]

■ On page 49459, in § 63.2282, in the third column, in the ninth line down, ''August 13, 2021]'' should read ''August 13, 2020''.

[FR Doc. C1–2020–12725 Filed 8–20–20; 8:45 am]

BILLING CODE 1300–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0460; FRL–10010–98]

Flupyradifurone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flupyradifurone in or on multiple commodities which are identified and discussed later in this document. The Interregional Project Number 4 (IR–4) and the registrant, Bayer CropScience, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 21, 2020. Objections and requests for hearings must be received on or before October 20, 2020 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0460, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Please note that due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0460 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 20, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0282; FRL–10014–50–OAR]

RIN 2060–AM75

Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule finalizes amendments to the General Provisions that apply to National Emission Standards for Hazardous Air Pollutants (NESHAP). These amendments implement the plain language reading of the "major source" and "area source" definitions of section 112 of the Clean Air Act (CAA) and provide that a major source can be reclassified to area source status at any time upon reducing its potential to emit (PTE) hazardous air pollutants (HAP) to below the major source thresholds (MST) of 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. This rule also finalizes amendments to clarify the compliance dates, notification, and recordkeeping requirements that apply to sources choosing to reclassify to area source status and to sources that revert back to major source status, including a requirement for electronic notification.

DATES: This final rule is effective on January 19, 2021.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0282. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final rule, contact Ms. Elineth Torres, Sector Policies and Programs Division (D205–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4347; fax number: (919) 541–4991; and email address: *torres.elineth@epa.gov.* Questions concerning specific reclassifications should be directed to the appropriate Regional office.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
D.C. Cir. the United States Court of Appeals for the District of Columbia Circuit
EAV equivalent annualized value
EIA economic impact analysis
EPA Environmental Protection Agency
FIP Federal Implementation Plan
HAP hazardous air pollutant(s)
MACT maximum achievable control technology
MM2A Major MACT to Area
MRR monitoring, recordkeeping, and reporting
MST major source thresholds
NESHAP national emission standards for hazardous air pollutants
NMA National Mining Association
NSPS new source performance standards
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OIAI Once In, Always In
OMB Office of Management and Budget
PRA Paperwork Reduction Act
PSD prevention of significant deterioration
PTE potential to emit
PV present value
RTO regenerative thermal oxidizers
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RTR residual risk and technology review
SIP State Implementation Plan
TIP Tribal Implementation Plan
TSM technical support memorandum
tpy tons per year
UMRA Unfunded Mandates Reform Act
VOC volatile organic compound(s)

Background information. On July 26, 2019, the EPA proposed revisions to the General Provisions that apply to the NESHAP to implement the plain language reading of the "major source" and "area source" definitions of CAA section 112 and provide that a major source can be reclassified to area source status at any time upon limiting its potential to emit HAP to below the MST of 10 tpy of any single HAP and 25 tpy of any combination of HAP (also referred to herein as Major Maximum Achievable Control Technology (MACT) to Area or "MM2A proposal") (see 84 FR 36304). In this rule, we are taking final action on some of the amendments as proposed, and we are taking final action on other amendments as modified based on the public comments to clarify the requirements that apply to sources choosing to reclassify to area source status at any time, including reclassification that occurs after the first substantive compliance date of applicable major source NESHAP requirements and the requirements that apply to sources that reclassify from major to area source status and then revert back to their previous major source status. Regarding the proposed amendments to the PTE definition, we are not finalizing the definition of "legally and practicably enforceable" PTE limits or the effectiveness criteria for those limits in this action. We are, however, promulgating a ministerial amendment to the regulatory definition of "potential to emit" in the interim. We are also finalizing revisions to the General Provisions tables and initial notification requirements within most NESHAP subparts to account for the regulatory provisions we are finalizing in this rule. We summarize some of the more significant public comments we received regarding the proposed rule and provide our responses to those comments in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the Response to Comments document available in the docket No. EPA–HQ–OAR–2019–0282. A "track changes" version of the regulatory language that incorporates the changes finalized in this rule is also available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Determination Under CAA Section 307(d)
M. Congress Review Act (CRA)

I. Executive Summary

A. Purpose of the Regulatory Action

In this final rule (also referred to herein as ''final MM2A rule'' or final rule), the EPA is finalizing amendments to the General Provisions of the NESHAP regulations in 40 CFR part 63, subpart A to implement the plain language reading of the ''major source'' and ''area source'' statutory definitions of section 112 of the CAA and provide that a major source can be reclassified to area source status at any time upon reducing its emissions and PTE, as defined in 40 CFR 63.2, to below the MST of 10 tpy of any single HAP and 25 tpy of any combination of HAP. Prior to proposing these amendments, the EPA reviewed the statutory provisions that govern when a major source can reclassify to area source status, including after being subject to major source requirements under section 112 of the CAA (also referred to herein as ''CAA section 112 requirements'' or ''requirements''). After further review of CAA section 112 provisions and public comments received on the MM2A proposal, the EPA is finalizing its conclusion that the statutory definitions of major source and area source contain no language fixing a source's status at any particular point in time and contain no language suggesting a cutoff date after which the source's status cannot change. Accordingly, the Agency is finalizing its reading that a major source may be reclassified as an area source at any time upon reducing its HAP emissions and PTE below the applicable CAA section 112 MST. Thus, major sources that reclassify to area source status at any time, including after the first substantive compliance date of an applicable major NESHAP, will no longer be subject to CAA section 112 major source NESHAP requirements and will be subject to any applicable area source NESHAP requirements. A full discussion of the statutory authority for this final MM2A rule can be found in section IV of this preamble.

B. Summary of the Major Provisions of the Regulatory Action

The EPA is finalizing amendments to the General Provisions of the NESHAP regulations in 40 CFR part 63, subpart A to clarify the requirements that apply to sources choosing to reclassify to area source status at any time, including after being subject to major source requirements under section 112 of the CAA. The EPA is finalizing amendments to the applicability section found in 40 CFR 63.1 by adding a new paragraph (c)(6). This paragraph specifies that a major source may become an area source at any time upon reducing its emissions of and PTE HAP, as defined in this subpart, to below the major source thresholds established in 40 CFR 63.2.

The EPA is finalizing in 40 CFR 63.1(c)(6) that a major source reclassifying to area source status remains subject to any applicable major source NESHAP requirements until the reclassification becomes effective. After the reclassification becomes effective, the source is subject to any applicable area source NESHAP requirements in 40 CFR part 63. For sources that reclassify from major to area source status and then revert back to their previous major source status, the EPA is also finalizing in 40 CFR 63.1(c)(6) that the source becomes subject to the applicable major source NESHAP requirements of 40 CFR part 63 immediately upon becoming a major source again. The EPA is finalizing in 40 CFR 63.1(c)(6) regulatory text to address the interaction of the reclassification of sources with enforcement actions arising from violations that occurred before reclassification. Specifically, we are finalizing that the reclassification of a source does not affect the source's liability or any enforcement investigations or enforcement actions for a source's past conduct that occurred prior to the source's reclassification.

To ensure that all sources that reclassify notify the EPA, the EPA is finalizing amendments clarifying the existing notification requirements in 40 CFR 63.9(b) and (j). With these amendments, the notification requirements of 40 CFR 63.9 will cover not only cases where a source switches from major to area source status, but also cases where an area source reverts to major source status. A source that reclassifies in either direction must notify the EPA of any changes in the applicability of the standards that the source was subject to per the notification requirements of 40 CFR 63.9(j). The EPA is also finalizing amendments to the notification requirements in 40 CFR 63.9(b) and (j) to require in certain circumstances that the notification be submitted electronically through the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule amends the General Provisions to add 40 CFR 63.9(k) to include the CEDRI submission procedures. The EPA is finalizing amendments to remove the time limit for record retention in 40 CFR 63.10(b)(3) so sources that obtain enforceable PTE limits after the effective date of this final rule are required to keep the applicability determination records as long as they rely on the PTE limits to be area sources. The EPA is also finalizing amendments to 40 CFR 63.12(c) to clarify that a source may not be exempted from electronic reporting requirements. Further, the EPA is finalizing amendments to 40 CFR 63.13 to clarify that when required by this part, or at the request of the EPA Regional office, submitting a report or notification to CEDRI fulfills the obligation to report to the EPA Regional office.

This final action includes amendments to the General Provisions applicability tables contained within most subparts of 40 CFR part 63 to add a reference to the new provision in 63.1(c)(6) discussed above. We are also finalizing revisions to several NESHAP subparts by removing the date limitation after which a major source cannot become an area source. The provisions amended are: 40 CFR part 63, subpart HH at 63.760(a)(1); 40 CFR 63, subpart HHH at 63.1270(a); 40 CFR part 63, subpart QQQ at 63.1441; 40 CFR part 63, subpart QQQQQ at 63.9485; 40 CFR

part 63, subpart RRRRR at 63.9581; and Table 2 of 40 CFR part 63, subpart WWWW. The final rule also includes amendments to the initial notification requirements of most NESHAP subparts because the date that was specified in the regulations has passed.

The EPA is still considering the proposed effectiveness criteria for HAP PTE limits and the proposed changes to the definition of ''potential to emit'' in 40 CFR 63.2 and is not taking any final action on those aspects of the proposed rule at this time. Thus, this final rule does not include responses to comments on proposed effectiveness criteria for PTE limits or comments related to the proposed changes to the PTE definition. The EPA is still reviewing comments received and will respond to them in a subsequent action. In the meantime, while we continue to consider what final action to take on the proposed amendments, the EPA is making an interim ministerial revision to the PTE definition to address the court decision in *National Mining Association (NMA)* v. *EPA,* 59 F.3d 1351, 1363–1365 (D.C. Cir. 1995). Specifically, this revision removes the word ''federally'' from the phrase ''federally enforceable'' in the PTE definition. This interim ministerial revision is also consistent with the EPA's long-standing policy [1] that allows for any physical or operational limitation on the capacity of the stationary source to emit a pollutant to be treated as part of the source's design if the limitation or the effect it would have on emissions is, first, either federally enforceable or legally enforceable by a state or local permitting authority and, second, practicably enforceable.

C. Impacts of the Final Regulatory Action

The final rule does not require any source to reclassify to area source status. An evaluation of the potential to reclassify from major source to area source status involves many source-specific considerations. Each source will assess its own circumstances to determine whether it is feasible and advantageous to undergo the reclassification process. The unique nature of each source's decision process makes it difficult for the EPA to determine the number and type of sources that may choose to reclassify under this rule. Because of this, the EPA is limited to presenting illustrative analyses concerning the impacts of this final rule. The illustrative assessment of impacts includes the potential net cost savings and potential emissions changes that may result from this final action. The illustrative impacts are estimated for the three analytical scenarios established for the rule and are estimated in relation to a baseline in which sources remain subject to major source NESHAP requirements after the first substantive compliance date of such standards. The potential impacts presented in the preamble reflect the results of the illustrative analysis of the primary scenario, which, for analytical purposes, is defined as including those facilities whose actual emissions are below 75 percent of the MST (*i.e.,* 7.5 tpy for a single HAP and 18.75 tpy for all HAP). This scenario is further described in section VIII of this preamble, in the technical support memorandums (TSM),[2] and the Regulatory Impact Analysis (RIA) that is available in the docket for this action. The memorandums and RIA also present an analysis of two alternative scenarios to provide a range of estimated potential cost impacts.[3]

The EPA estimates that this final action may result in substantial annual cost savings of $90.6 million (2017$) based on illustrative estimates of its potential reduction in administrative burden if sources reclassify to area source status.[4] The voluntary actions taken by sources to reclassify will be carried out over a period of time, but once a source reclassifies, the cost savings will accrue for as long as the source continues to operate as an area source. While cost savings will accrue for the life of the facility, we present a 5-year outlook of potential cost savings from this action to provide insight into the cost distribution over time. Results are also presented as the present value (PV) and equivalent annualized value (EAV) of the cost savings of the final MM2A rule in 2017 dollars. The PV is the one-time value of a stream of impacts over time, discounted to the current (or nearly current) day. The EAV is a measure of the annual cost that is calculated consistent with the PV. The illustrative cost savings of the final MM2A rule in 2017 dollars are presented in detail later in section VIII of this preamble and in the RIA.

Table 1 presents a summary of key results from the RIA for the final MM2A rule. This table presents the PV and EAV, estimated in 2017 dollars using discount rates of 7 and 3 percent and discounted to 2020, of the illustrative net cost savings of the final MM2A rule. The EAV estimates are consistent with the PV and reflect the illustrative total net cost savings of the rule from 2021, the first year after rule promulgation, and subsequent years.

TABLE 1—ILLUSTRATIVE NET COST SAVINGS INCREMENTAL TO THE BASELINE

[(Including following years) (Billions 2017$) *]

	7 Percent		3 Percent	
	Present value	Equivalent annualized value	Present value	Equivalent annualized value
Potential Net Cost Savings	$0.86	0.07	$1.50	0.08

* The overall analytic timeline begins in 2021 and continues thereafter for an indefinite period. The cost savings in 2016 dollars and discounted to 2016, as defined as a present value, are $0.654 billion at 7 percent and $1.13 billion at 3 percent. As equivalent annualized values, the cost savings are $52 million at 7 percent and $58 million at 3 percent.

[1] See January 25, 1995, memorandum titled ''*Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)*'' and December 20, 1999, memorandum titled ''*Third Extension of January 25, 1995 Potential to Emit Transition Policy.*'' Available at *https://www.epa.gov/guidance/guidance-documents-managed-office-air-and-radiation* and in the docket of this rule.

[2] See ''*Documentation of the Data for Analytical Evaluations and Summary of Industries Potentially Impacted by the Final Rule titled Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act,*'' and ''*Analysis of Illustrative 125% Scenario for MM2A Final—Potential Cost Impacts from HAP Major Sources Reducing Emissions as part of Reclassifying to HAP Area Sources.*''

[3] Alternative scenario 1 analyzes those facilities whose actual emissions are below 50 percent of the MST (5 tpy for a single HAP and 12.5 tpy for all HAP). Alternative scenario 2 analyzes that sources below 125 percent of the MST (12.5 tpy for a single HAP and 31.25 tpy for all HAP). Discussions of these scenarios and results can be found in the RIA for this final action.

[4] Annual cost savings reflect impacts in Year 2 of the reclassification process for all sources that choose to reclassify under the primary scenario. All cost savings are net of any additional permitting and recordkeeping costs to state regulatory agencies and sources. These annual cost savings are those for 2025 and subsequent years.

Impacts in Table 1 reflect the potential impacts of the final MM2A rule for the year in which all reclassifications are expected to have taken place (2025) and beyond.

To assess the potential changes in emissions that may result from the reclassification of major sources to area sources under this rule, we reviewed the permits and other information from 69 sources that have reclassified since January 2018, consistent with the EPA's plain language reading of the CAA section 112 definitions of "major" and "area" source, and also performed an illustrative analysis of 72 source categories in detail. Because we do not have information on the major sources that may choose to reclassify to area source status in the future and the enforceable conditions they will take in order to reclassify, we are not able to provide an assessment of the emissions impacts for actual reclassifications beyond the 69 sources that have already reclassified.[5] Therefore, we conducted a detailed illustrative analysis of 72 source categories to provide a broad characterization of the potential changes in emissions for all NESHAP source categories that could be impacted by this action. The assessment of the 69 reclassifications shows that 68 facilities have requirements in their operating permits that would continue to implement the compliance methods used to comply with the major source NESHAP requirements and prevent emissions increases. However, the EPA found that one of the 69 reclassified sources will not continue to employ the same compliance methods that it used to meet the major source NESHAP and thus it may increase its emissions. For the illustrative analysis of emissions impacts conducted, we find that 65 source categories in the major source NESHAP program will either not be impacted or will not increase emissions as a result of the rule. Based on the broad assumptions applied in the analysis, we found a potential for emissions increases for some facilities in seven source categories. While a majority of facilities are not anticipated to change emissions, approximately 3.1 percent of the facilities in the MM2A database that we were able to analyze could increase emissions if sources: (1) Voluntarily opt to reclassify and (2) were allowed to reduce operation of adjustable add-on controls. We also found a potential for emissions decreases in cases where sources choose to reduce emissions from above the MST to below the MST to reclassify. The facilities that we were able to assess for emission increases and decreases are located across the United States (*i.e.,* in more than 10 states and in every region of the United States) and are not clustered in close proximity to each other. Further discussion of the impacts of the final rule are presented in section VIII of this preamble and presented in detail in the technical support memorandums, titled *Documentation of the Emissions Analysis for the Final Rule "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act"* and the *Analysis of the Illustrative 125% Scenario for MM2A Rule—Potential Cost Impacts from HAP Major Sources Reducing Emissions as part of Reclassifying to HAP Area Sources,* and the RIA for the final rule, all of which are available in the docket for this action.

II. General Information

A. Does this rule apply to me?

Categories and entities potentially impacted by this rule include sources subject to NESHAP requirements under section 112 of the CAA.

The final amendments are applicable to sources that reclassify from major source to area source status under section 112 of the CAA and sources that revert from their reclassified area source status to their previous major source status.

Federal, state, local, and tribal governments may be affected by this rule if they own or operate sources that choose to request reclassification from major source status to area source status or if reclassified sources choose to revert to their previous major source status at some time in the future. The EPA is the permitting authority for issuing, rescinding, and amending permits for sources that request reclassification in Indian country, with four exceptions.[6] State, local, or tribal regulatory authorities[7] may receive requests to issue new permits or make changes to existing permits for sources in their jurisdiction to address reclassification-related activities (*e.g.,* title V, synthetic minor permits, establishing limits on a source's PTE).

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of the final MM2A rule is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

A redline version of the regulatory language that incorporates the amendments finalized in this rule is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0282).

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (DCCir.) by January 19, 2021. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure that was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building,

[5] Of the 69 sources, 68 have already reclassified and one was undergoing the process of reclassification.

[6] Two tribes have approved title V programs or delegation of 40 CFR part 71. The tribes may have sources that request to no longer be covered by title V. Neither of these two tribes have approved minor source permitting programs but may in the future. In the meantime, the tribes will need to coordinate with the EPA, who is the permitting authority in Indian country for these requests. In addition, two other tribes have approved Tribal Implementation Plans (TIPs) authorizing the issuance of minor source permits. Only one of these tribes has a major source that would be eligible to request reclassification. If that source requests a new permit, the tribe may issue the minor source permit, but the EPA would need to be made aware of the request, as the EPA is the permitting authority for title V.

[7] The term regulatory authority is intended to be inclusive of the federal, state, tribal, or local air pollution control agency with authority to process reclassification requests and issuance of enforceable PTE limits.

1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

III. Background

Shortly after the EPA began implementing individual NESHAP resulting from the 1990 CAA Amendments, the Agency received multiple requests to clarify when a major source of HAP could avoid CAA section 112 requirements applicable to major sources by taking enforceable limits on its PTE below the major source thresholds. In response, the EPA issued, on May 16, 1995, a memorandum from John Seitz, Director of the Office of Air Quality Planning and Standards, to the EPA Regional Air Division Directors (the May 1995 Seitz Memorandum).[8] The May 1995 Seitz Memorandum provided guidance on three timing issues related to avoidance of CAA section 112 requirements for major sources:

- "By what date must a facility limit its PTE if it wishes to avoid major source requirements of a MACT standard?"
- "Is a facility that is required to comply with a MACT standard permanently subject to that standard?"
- "In the case of facilities with two or more sources in different source categories: If such a facility is a major source for purposes of one MACT standard, is the facility necessarily a major source for purposes of subsequently promulgated MACT standards?"

In the May 1995 Seitz Memorandum, the EPA stated its interpretation of the relevant statutory language that facilities that are major sources of HAP may switch to area source status at any time until the "first compliance date" of the standard.[9] Under this interpretation, facilities that are major sources on the first substantive compliance date of an applicable major source NESHAP were required to comply permanently with that major source standard even if the source was subsequently to become an area source by limiting its PTE. This position was commonly referred to as the "Once In, Always In" (OIAI) policy. The May 1995 Seitz Memorandum provided that a source that is major for one NESHAP would not be considered major for a subsequent NESHAP if the source's potential to emit HAP emissions was reduced to below major source levels by complying with the first major source NESHAP. In the May 1995 Seitz Memorandum, the EPA set forth transitional policy guidance that was intended to remain in effect only until the Agency proposed and promulgated amendments to the 40 CFR part 63 General Provisions.

After issuing the May 1995 Seitz Memorandum, the EPA twice proposed regulatory amendments that would have altered the OIAI policy. In 2003, the EPA proposed amendments that focused on HAP emissions reductions resulting from pollution prevention (P2) activities. Apart from certain provisions associated with the EPA's National Environmental Performance Track Program—a national voluntary program designed to recognize and encourage top environmental performers whose program participants go beyond compliance with regulatory requirements to attain levels of environmental performance that benefit people, communities, and the environment—that proposal was never finalized. See 68 FR 26249 (May 15, 2003); 69 FR 21737 (April 22, 2004). In 2007, the EPA issued a proposed rule to replace the OIAI policy set forth in the May 1995 Seitz Memorandum. See 72 FR 69 (January 3, 2007). In that proposal, the EPA reviewed the provisions in CAA section 112 relevant to the OIAI policy interpretation, applicable regulatory language, stakeholder concerns, and potential implications. *Id.* at 71–74. Based on that review, the EPA proposed an interpretation of the relevant statutory language that a major source that is subject to a major source NESHAP would no longer be subject to that major source standard if the source were to become an area source through enforceable limitations on its PTE HAP emissions. *Id.* at 72–73. Under the 2007 proposal, major sources could take such limits on their PTE and obtain "area source" status at any time and would not be limited to doing so only before the "first substantive compliance date," as the OIAI policy provided. *Id.* at 70. The EPA did not take final action on this 2007 proposal.

In 2017, the EPA received public comments pursuant to Executive Order 13777, Enforcing the Regulatory Reform Agenda (February 24, 2017), and the Presidential Memorandum on Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing (January 24, 2017) supporting the withdrawal of the OIAI policy.[10] Per these comments, the OIAI policy imposed an artificial time limit on major sources obtaining area source status not found in the definitions of "major source" and "area source" in CAA sections 112(a)(1) and (2). Commenters further stated that the temporal limitation imposed by the OIAI policy was inconsistent with the CAA and created an arbitrary date by which sources must determine whether their HAP PTE will exceed either of the major source thresholds.

On January 25, 2018, the EPA issued a guidance memorandum from William L. Wehrum, Assistant Administrator of the Office of Air and Radiation, to the EPA Regional Air Division Directors titled "*Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act*" (MM2A Memorandum).[11] The MM2A Memorandum discussed the statutory provisions that govern when a source subject to major source NESHAP requirements under section 112 of the CAA may be reclassified as an area source and thereby avoid being subject thereafter to major source NESHAP requirements and other requirements applicable to major sources under CAA section 112. In the MM2A Memorandum, the EPA discussed the plain language of CAA section 112(a) stating Congress's definitions of "major source" and "area source" and determined that the OIAI policy articulated in the 1995 Seitz Memorandum was contrary to the plain language of the CAA and, therefore, must be withdrawn. In the MM2A Memorandum, the EPA announced the future publication of a proposed rule to receive input from the public on adding regulatory text consistent with the plain reading of the statute as described in the MM2A Memorandum.

On July 26, 2019, the EPA proposed regulatory text to implement the plain

[8] See "*Potential to Emit for MACT Standards-Guidance on Timing Issues.*" From John Seitz, Director, Office of Air Quality Planning and Standards, to the EPA Regional Air Division Directors. May 16, 1995, *https://www.epa.gov/sites/production/files/2018-02/documents/pteguid.pdf.* Also available in the docket of this rule.

[9] The "first substantive compliance date" is defined as the first date a source must comply with an emissions limitation or other substantive regulatory requirement (*i.e.*, leak detection and repair programs, work practice measures, etc . . . , but not a notice requirement) in the applicable standard.

[10] See Executive Order 13777 at 82 FR 12285 (February 24, 2017) and request for comment at 82 FR 17793 (April 13, 2017), Docket ID No. EPA–HQ–OAR–2017–0190. See Presidential Memorandum at 82 FR 8667 (January 24, 2017) and request for information at 82 FR 12786 (March 7, 2017), Docket ID No. DOC–2017–0001.

[11] See notice of issuance of this guidance memorandum at 83 FR 5543 (February 8, 2018).

language reading of the statute as discussed in the MM2A Memorandum. See 84 FR 36304. The 2019 MM2A proposal superseded and replaced the 2007 proposal. See 72 FR 69 (January 3, 2007). The EPA solicited comment on all aspects of the MM2A proposal, including the EPA's position that the withdrawal of the OIAI policy and the proposed approach gives proper effect to the statutory definitions of "major source" and "area source" in CAA section 112(a) and is consistent with the plain language and structure of the CAA as well as the impacts of the proposal on costs, benefits, and emissions impacts. Publication of the MM2A proposal in the **Federal Register** opened comment on the proposal for an initial 60-day public comment period. The EPA held a public hearing on August 15, 2019, in Washington, DC. In response to requests for an extension of the comment period, the EPA reopened the public comment period for an additional 30 days through November 1, 2019. The EPA received more than 16,000 comments on the MM2A proposal. After review and consideration of public comments, the EPA is finalizing the implementation of the plain language reading of the definitions of major source and area source under CAA section 112. Per CAA section 307(d)(6)(B), the EPA is providing a response to the to the most significant comments received on the MM2A proposal in this preamble, and responses to the other comments in the Response to Comments document available in the docket.

IV. Statutory Authority

As discussed in the preamble of the MM2A proposal at 84 FR 36304, 36309–36313 (July 26, 2019), CAA section 112 distinguishes between major and area sources of HAP emissions. Indeed, the very first provisions in CAA section 112 are the major source definition in CAA section 112(a)(1) and area source definition in CAA section 112(a)(2)) that create the major/area distinction. Major sources emit more HAP than area sources and, generally, different requirements apply to major sources and area sources. For some section 112 source categories, the EPA has promulgated requirements for only major sources, and HAP emissions from area sources are not regulated under the NESHAP program.

Whether a source is a "major source" or an "area source" depends on the amount of HAP emitted by the source based on its actual and potential emissions. Congress defined "major source" to mean a source that emits or has the potential to emit at or above either of the statutory thresholds of 10 tpy of any one HAP or 25 tpy of total HAP. CAA section 112(a)(1). An "area source" is defined as any source of HAP that is not a major source. CAA section 112(a)(2). If a source does not emit or does not have the potential to emit at or above either of the major source thresholds, then it is an "area source." The statutory definitions of "major source" and "area source" do not contain any language that fixes a source's status as a major source or area source at any particular point in time, nor do they otherwise contain any language suggesting that there is a cutoff date after which a source's status cannot change.

Congress did, however, create a distinction based on timing in CAA section 112 in defining and creating provisions related to "new sources" and "existing sources." Specifically, Congress defined "new source" to mean a source that is constructed or reconstructed after the EPA first proposes regulations covering the source. CAA section 112(a)(4). An "existing source" is defined as any source other than a new source. CAA section 112(a)(10). A source will be subject to different requirements depending on whether it is a new source or an existing source. See, *e.g.,* CAA section 112(d)(3) (identifying different minimum levels of stringency (known as "MACT floors") for new and existing sources).

The emissions-based distinction (arising from the definitions of major source and area source) and the timing-based distinction (arising from the definitions of new source and existing source) are independent, and neither is tied to the other. For example, the statutory definition of "major source" does not provide that major source status is determined based on a source's emissions or PTE as of the date that the EPA first proposes regulations applicable to that source or any other point in time. As noted above, the plain language of the "major source" and "area source" definitions create a distinction that is based solely on amount of emissions and PTE, and not timing. Similarly, with respect to the timing-based distinction, a source is a "new source" or an "existing source" based entirely on the timing of its construction or reconstruction and without consideration of its actual emissions or PTE. The contrast between the temporal distinction in the contrasting definitions of existing and new sources on the one hand, and the absence of any temporal dimension to the contrasting definitions of major and area sources on the other, is further evidence that Congress did not intend to place a temporal limitation on a source's ability to be classified as an area source (including a source's ability to be classified as an area source through the permitting authority's "considering controls" that may have been imposed after the source was initially classified as major).

Notwithstanding the independence of the two distinctions that the statute created based on amount of emissions and timing (and without addressing that independence or otherwise addressing the plain language of the statutory definitions of "major source" and "area source"), the EPA issued the May 1995 Seitz Memorandum, which set forth the OIAI policy. Under the OIAI policy, a source's status as a major source for the purpose of applying a specific major source MACT standard issued under the requirements of CAA section 112 was deemed to be unalterably fixed on the first substantive compliance date of the specific applicable major source requirements. Thus, a source that was a major source on that first compliance date would continue to be subject to the major source requirements for that specific NESHAP even if the source reduced its emissions of and PTE HAP to below the statutory thresholds in the definition of "major source," and, thus, fell within the definition of "area source."

On January 25, 2018, the EPA issued the MM2A Memorandum. The MM2A Memorandum discussed the statutory definitions of "major source" and "area source" and explained that the OIAI policy articulated in the May 1995 Seitz Memorandum was contrary to the plain language of the CAA, and, therefore, must be withdrawn.

As discussed above, Congress expressly defined the terms "major source" and "area source" in CAA section 112(a) in unambiguous language. Nonetheless, under the OIAI policy, a source that reduced its emissions of and PTE HAP to below the statutory thresholds for major source status after the relevant compliance date would continue to be subject to the requirements applicable to major sources. This policy was applied notwithstanding that the statutory definitions of "major source" and "area source" lack any reference to the compliance date of major source requirements or any other text that indicates a time limit for changing between major source status and area source status. In short, Congress placed no temporal limitations on the determination of whether a source emits or has the potential to emit HAP in sufficient quantity to be a major source

under CAA section 112. Because the OIAI policy imposed such a temporal limitation (before the ''first compliance date''), the EPA had no authority for the OIAI policy under the plain language of the CAA. Under the plain language of the statute, a major source that takes enforceable limits on its PTE to bring its HAP emissions below the CAA section 112 major source thresholds, no matter when it may choose to do so, becomes an area source under Congress's definition in CAA section 112(a)(2). In this final action, we are implementing the plain language of CAA section 112 and making clear that such a source can reclassify to area source status at any time, and after reclassification, will no longer be subject to the CAA section 112 requirements applicable to the source as a major source under CAA section 112—so long as the source's actual and PTE HAP emissions remain below the CAA section 112 thresholds—and will instead be subject to any applicable area source requirements.

A discussion of the statutory definitions of ''new source'' and ''existing source'' in CAA section 112(a)(4) and (10) further demonstrates that the OIAI policy was inconsistent with the language of the statute. As discussed above, the major source/area source distinction and the new source/existing source distinction are two separate and independent features of the statute. Significantly, the statutory definitions of ''new source'' and ''existing source'' dictate that the new source/existing source distinction is determined by when a source commences construction or reconstruction and says nothing about the source's volume of emissions. No one can reasonably suggest that this silence concerning volume of emissions indicates that Congress intended to give the EPA the discretion to conclude that sources should be classified as new or existing based, in part, on how much they emit. For example, if the EPA were to say that a source is only a new source if it both (1) commences construction after regulations are first proposed (as stated in CAA section 112(a)(4)), and (2) emits more than 20 tpy of any single HAP (which is not stated anywhere in the statute), that second element would be contrary to the plain language of the statute. Similarly, the OIAI policy of considering timing as part of the major source/area source distinction is contrary to the plain language of the statute, because it interjects timing into the major/area distinction when Congress provided that such distinction would be based only on the source's actual and potential emissions. In short, Congress's creation of the timing distinction in the new source and existing source definitions shows that Congress was explicit when it wanted to classify sources based on timing, and it did not do so in creating the major/area source distinction.

Some commenters have argued that the EPA's plain language reading cannot be correct in light of various provisions in CAA section 112. The EPA has considered these comments and concluded that the EPA's plain language reading is the correct reading, for the reasons discussed below, in the Response to Comments document and elsewhere in the record.

CAA section 112(i)(3)(A)—Some commenters assert that the EPA's plain language reading of the definitions of ''major source'' and ''area source'' is contradicted by CAA section 112(i)(3)(A). Specifically, they contend that the first phrase in CAA section 112(i)(3)(A) precludes a major source from reclassifying to area source status after the source has become subject to a major source standard and that this statutory text compels the OIAI policy. The EPA disagrees with this contention. The first phrase in CAA section 112(i)(3)(A) states: ''After the effective date of any emissions standard, limitation or regulation promulgated under this section and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation . . . .'' As discussed in the proposal (84 FR 36311), the EPA reads this phrase to have the same meaning as similar ''effective date'' provisions in the CAA, such as CAA section 111(e), notwithstanding that CAA section 112(i)(3)(A) has somewhat different phrasing. In short, this text simply provides that, after the effective date of a CAA section 112 rule, sources to which a standard is applicable must comply with that standard. This text is not reasonably read to say that, once a standard is applicable to a source, that standard continues to be applicable to the source for all time, even if the source's potential to emit changes such that it no longer meets the applicability criteria for the standard. Such a reading would produce some results that are clearly incorrect. For example, if the first phrase in CAA section 112(i)(3)(A) were read to say that a source's applicable requirements are determined at the point in time that a source first becomes subject to CAA section 112 requirements, then an area source would continue to be subject to area source requirements even if that source increased its potential to emit above either of the major source thresholds. Such a result would be contrary to the EPA regulations, which provide that an area source that increases its emissions or PTE above the MST becomes subject to the applicable major source requirements. 40 CFR 63.6(a)(2), 63.6(b)(7), 63.6(c)(5).

Further, reliance on CAA 112(i)(3)(A) to argue against the EPA's plain language reading and for a return to the OIAI policy ignores that the ''effective date'' of a CAA section 112 standard is not the same as the ''compliance date.'' CAA section 112(i)(3)(A) expressly provides that the EPA may set the ''compliance date'' for existing sources up to 3 years after the ''effective date.'' Similarly, CAA section 112(i)(5) (which is applicable in certain circumstances for sources that make early reductions in HAP emissions) provides for a delayed compliance date that will be after the effective date. This is significant because the cutoff deadline for reclassification that the commenters say is required under CAA section 112(i)(3)(A) is not the effective date. Under the OIAI policy, the cutoff date for reclassification was the first substantive compliance date, which (as just discussed) is clearly distinguished from the effective date in CAA section 112(i)(3)(A) in the statute. Thus, commenters' reading of CAA section 112(i)(3)(A) would not only be contrary to the EPA's plain language reading but would also be contrary to the OIAI policy under which sources could reclassify after the effective date as long as they did so before the first substantive compliance date.

In sum, the EPA has concluded that the CAA section 112 definitions of ''major source'' and ''area source'' and the ''effective date'' provision in CAA section 112(i)(3)(A) are properly read together to say that sources must comply with the applicable requirements corresponding to their major source or area source status, and that if this status changes, then the source becomes subject to the requirements corresponding to its status after the change.

CAA sections 112(c)(3) and (6)—Some commenters argue that CAA sections 112(c)(3) and (6) reflect a Congressional intent that sources be subject to continuous, permanent compliance with major source standards and that these provisions are, therefore, inconsistent with the EPA's plain language reading. But there is no inconsistency here. Those provisions required the EPA to ensure that sources accounting for 90 percent of the emissions of specific pollutants were listed and regulated by November 2000. The premise of the commenters' argument based on CAA

sections 112(c)(3) and (6) is that these provisions do not simply require the EPA to list and regulate sufficient source categories to meet the 90-percent requirement at a given point in time; rather, they require that the EPA's regulations ensure that 90 percent of emissions are subject to regulation on an ongoing basis. This is not a reasonable reading of CAA sections 112(c)(3) and (6) because, as explained in greater detail in the proposed rule preamble at 84 FR 36311, the requirements of the statute and subsequent standards will result in the emissions from the listed source categories falling below the 90-percent threshold once those source categories are regulated. If commenters' interpretation were correct, CAA sections 112(c)(3) and (6) would create a never-ending cycle of listing and regulation in order to achieve an unattainable goal of ensuring that 90 percent of emissions are regulated. See 84 FR 36311.

In response to the EPA's discussion in the proposed rule preamble, commenters have stated that the statutory text in CAA sections 112(c)(3) and (6) is properly read not to focus on the source categories that those provisions require to be listed but on the individual sources that are within those categories—specifically, that these provisions require the EPA to regulate the sources that produced those emissions. But if the listing and regulation required pursuant to CAA sections (c)(3) and (6) were read to apply to the sources that produced the emissions as of the time of the listing of the categories, then that would mean that new sources within the listed source categories would not be regulated. The EPA does not think this is a reasonable reading of those provisions. Instead, the proper reading of these provisions is that the EPA is to list and regulate source categories, and then a source is regulated pursuant to the standard applicable to a given source category to the extent that, and as long as, the source remains within the source category. Thus, under a proper reading of CAA sections 112(c)(3) and (6), those provisions do not prevent reclassification, so there is no conflict between the EPA's plain language reading of CAA sections 112(a)(1)–(2) and the requirements of CAA sections 112(c)(3) and (6).

CAA section 112(f)(2)—Commenters also point to CAA section 112(f)(2) (commonly referred to as the residual risk provision) and contend that the EPA's plain language reading allows reclassified sources to avoid the review required under that provision. But this argument fails to refute the discussion that the EPA provided in the proposed rule preamble (at 84 FR 36311–36312). First, as a general matter, Congress in CAA section 112 plainly distinguished between major sources emitting above the MST and area sources emitting below the MST and subjected them to different requirements. Second, with regard to CAA section 112(f), CAA section 112(f)(5) contains an express exemption from the CAA section (f)(2) review for area sources, and there is no statutory basis or logical reason for treating an area source differently just because it is a former major source. For these reasons, CAA section 112(f) is not inconsistent with the EPA's plain language reading.

CAA section 112(d)—Some commenters have pointed to the requirements of CAA section 112(d) as requiring sources that are at any point subjected to major source standards must continue to be subject to major source standards permanently. These commenters have argued that the EPA's plain language reading undermines the emissions reductions required by these CAA section 112 standards. Section 112(d)—and in particular, sections 112(d)(2) and (3) of the CAA—addresses how the EPA sets MACT standards for major sources (based on the maximum degree of emissions reduction the EPA determines is achievable, which may be a complete prohibition on emissions). But the question of what standard is applicable to major sources in a source category—whether MACT floor standards or otherwise—logically cannot determine which sources are major sources . Instead, the text and structure of CAA section 112 demonstrate that whether a source is classified as a major source or an area source is the threshold question under CAA section 112, and what requirements apply to the source flows from how the source is classified, with major sources and area sources facing significantly different regulation.

As noted above, the very first provisions in CAA section 112 are the major source definition in CAA section 112(a)(1) and area source definition in CAA section 112(a)(2) that create the major/area distinction. Following from this threshold distinction, CAA section 112 treats major sources and area sources differently in fundamental ways. To state a few examples that illustrate this:

(1) The EPA must list all categories of major sources of HAP pursuant to CAA section 112(c)(1), but only has to list categories of area sources representing 90 percent of HAP under CAA section 112(c)(3). This distinction is then carried over to what sources are regulated, as provided in CAA section 112(d)(1), which provides that the EPA will regulate those categories listed under CAA section 112(c).

(2) Major sources are subject to MACT standards under CAA section 112(d)(2) and (3), but area sources may be subject to generally available control technology (GACT) standards under CAA section 112(d)(5).

(3) Area source categories and subcategories listed under CAA section 112(c)(3) and for which standards are set under CAA section 112(d)(5) are not subject to residual risk review under CAA section 112(f)(2), pursuant to CAA section 112(f)(5).

In short, to the extent that major sources become area sources by reducing their emissions of and PTE HAP below the MST, and, thus, are no longer subject to major source requirements, that is not a "loophole" or an "end-run" around the major source requirements. That is simply the result of the provisions and structure of CAA section 112 that Congress enacted and reflects the fundamental distinction between how CAA section 112 addresses major sources and area sources.

Further, allowing a major source to take a PTE limit below the major source threshold and thereby avoid having to comply with major source requirements is not a new concept under MM2A. Indeed, that is precisely what happened under the OIAI policy. The only change under MM2A is one of timing. Under the OIAI policy, major sources could reclassify if they took the PTE limit before the first substantive compliance date. Under MM2A, sources can reclassify at any time. Nothing in the statute says, and there is no logical reason why, a major source that could reclassify to area source status on the day before its first substantive compliance date (as allowed under the OIAI policy) is foreclosed from doing so on the day after its first substantive compliance date.

Similarly, having a source reclassify after the first substantive compliance date is not a new concept under MM2A. During the time that the OIAI policy was in effect, area sources were reclassified to major source status at any time that they increased emissions or their PTE above the major source threshold, even if the increase occurred after the first substantive compliance date under the applicable area source rule.

For these reasons, the EPA concludes that the standard-setting provisions in CAA sections 112(d)(2) and (3) do not contradict the plain language of the major source and area source definitions

on the issue of whether a source can reclassify at any time.

Parties opposed to the EPA's plain language reading also suggest that the EPA's reading is inconsistent with the purpose and provisions of CAA section 112 because it will lead major sources that reclassify to area source status to increase their emissions above what they could emit if they continued to be major sources. The EPA disagrees with the suggestion that a source's reclassification from major source to area source will necessarily lead to an increase in emissions from the source above what would have been allowed to emit under the major source standard. As discussed in section VIII of the preamble, there are a number of reasons why reclassified sources are generally not expected to increase their emissions. The EPA's analysis of the sources that have reclassified to date and sources that might reclassify from various source categories shows that in 68 out of 69 operating permits for sources that have already reclassified to area source status since January 2018, sources achieved and maintain area source status by operating the emission controls or continuing to implement the practices they used to comply with the major source NESHAP requirements. However, the EPA found that one of the 69 reclassified sources will not continue to employ the same compliance method that it used to meet the major source standard, and thus may increase its emissions. In addition to this review of actual reclassification actions since January 2018, the EPA also prepared an illustrative analysis for 72 source categories in the major source NESHAP program (114 total) to evaluate the potential emissions impacts. After considering the information and data available for the illustrative emissions analysis, we found that 65 source categories will not change emissions as a result of the rule. For the other seven, there was a potential for (but not a certainty of) emissions increases based on conservative assumptions that are likely to overstate the change in emissions at some facilities. Sources in these in seven source categories assessed in the primary scenario could increase emissions if those facilities (1) opted to reclassify and (2) were permitted to change the operation of adjustable add-on controls. Further details of this illustrative analysis and the results are provided below in section VIII.

Further, allowing major sources to reclassify to area source status after the first substantive compliance date may create an incentive for sources to evaluate their operations and consider changes that can further reduce their HAP emissions to below the MST if the source views those changes as an opportunity to reduce costs of production, increase productivity, or reduce the costs of complying with major source NESHAP requirements. For example, sources using surface coatings may see the opportunity to become an area source as an extra incentive to invest in the development of new low- or no-HAP content coatings, inks, and binders. Similarly, sources with boilers and engines may benefit from replacing old boilers and engines with new, more efficient, and clean technologies. Such a replacement not only could help a source reduce HAP to below the MST but could also reduce fuel use and associated costs. To assess the opportunity for such emission decreases, we looked at an alternative scenario and determined that some sources operating between 75 and 125 percent of the MST could decrease emissions if those sources were to reclassify. Further details of this illustrative analysis and the results are provided below in section VIII.

In the MM2A proposal, the EPA took comment on whether it can and should promulgate regulatory provisions that would prevent a source that has reclassified from major to area source status from increasing emissions above what the source was allowed to emit when it was a major source. See 84 FR 36312–36313. Upon further consideration of this issue and the comments received, the EPA has concluded that the plain language of CAA section 112 precludes the promulgation of such provisions. As discussed above, the plain language of CAA section 112 provides that a source is an area source if its emissions and PTE are below the thresholds of 10 tpy of any one HAP and 25 tpy of any combination of HAP. Just as there is nothing in the statutory definitions in CAA sections 112(a)(1) and (2) or elsewhere in CAA section 112 that sets, or gives the EPA the authority to set, a cut-off date after which a major source cannot classify to area source status, there is nothing in CAA section 112 that imposes, or gives the EPA the authority to impose, a requirement that a source can only be an area source if it limits its emissions to some level below the MST. Congress clearly identified the thresholds of 10 tpy of any one HAP and 25 tpy of all combined HAP as the dividing line between major source status and area source status. The EPA cannot impose a different dividing line from what Congress wrote into CAA section 112. See *Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 325–326 (2014) (where Congress created precise numerical thresholds in the statute, the EPA's rewriting of the statutory thresholds is impermissible).

Further, even if there were some ambiguity in the text and structure of CAA section 112 that gave the EPA the discretion to impose such a requirement, the EPA's conclusion in light of both the statute and policy considerations is that such a requirement should not be imposed. As discussed above, whether a source is classified as a major source or an area source is the threshold question under CAA section 112, and what requirements apply to the source flows from how the source is classified, with major sources and area sources facing significantly different statutory requirements. If the EPA were to mandate that a reclassified area source maintain its emissions below the level that the source was subject to as a major source, that would be contrary to the fundamental structure that Congress created in CAA section 112. Further, as discussed below in section VIII, even in the absence of any provisions preventing emissions above what a reclassified source was allowed to emit as a major source, most sources are not expected to increase emissions and those that do would have only modest increases. Thus, as a matter of policy judgment, the EPA would not interpret any ambiguity in the statute to allow the imposition of a new limit on reclassified area sources more stringent than the limit applied to other area sources.

For these reasons, the EPA is not promulgating provisions that would prevent a source that has reclassified from major to area source status from increasing emissions above what the source was allowed to emit when it was a major source.

V. Summary of Final Amendments

To implement the plain language reading of the statute as discussed in section IV above, the EPA is finalizing amendments to the General Provisions of 40 CFR part 63, subpart A. The EPA is also finalizing amendments to the General Provisions tables contained within most subparts of 40 CFR part 63 to account for the regulatory provisions we are finalizing in the General Provisions of 40 CFR part 63, subpart A. Finally, the EPA is finalizing changes to several individual NESHAP intended to remove rule-specific OIAI provisions. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the Response to Comments document available in the docket.

A. Final Amendments to 40 CFR Part 63, Subpart A: General Provisions

1. Applicability

The EPA is finalizing amendments to the applicability section of the General Provisions of 40 CFR part 63.1 by adding a new provision 40 CFR 63.1(c)(6) to implement the plain language reading of the "major source" and "area source" statutory definitions of section 112 of the CAA and provide that a major source can be reclassified to area source status at any time upon reducing its actual emissions of and potential to emit HAP to below the MST of 10 tpy of any single HAP and 25 tpy of any combination of HAP. At proposal, this new applicability provision also included regulatory language addressing the compliance date with applicable NESHAP requirements for reclassification and interactions with enforcement actions. We received comments on all aspects of the new applicability provision. Below we discuss each aspect of the proposed MM2A applicability provision and what we are finalizing after considering public comments.

a. Reclassification Provision

The EPA proposed to amend 40 CFR 63.1 by adding a new paragraph (c)(6). As proposed, this paragraph specifies that a major source can become an area source at any time by limiting its PTE HAP to below the major source thresholds established in 40 CFR 63.2, provided certain conditions are met. We received comments in support of and against the proposed text in 40 CFR 63.1(c)(6) and comments requesting changes to or clarification on the proposed provision. Comments against the proposed reclassification provision based on the statutory text or other legal issues (such as legal comments opposing the EPA's plain language reading of CAA section 112 definitions of major and area sources allowing sources to reclassify at any time) are addressed in section IV of this preamble and in the Response to Comments document available in the docket. The comments requesting changes to or clarification on the new provision are summarized below.

Some commenters recommended that the EPA add language to the new provision in 40 CFR 63.1(c)(6) to specify that the provision applies to sources that reclassify to area source status after being subject to major source NESHAP requirements. The EPA disagrees that the language only applies to reclassification by a major source after the source has been subject to major source NESHAP requirements. The regulatory language in this provision implements the EPA's plain language reading of the definition of major and area sources in section 112 of the CAA, as discussed in length in section IV of this preamble, allowing sources to reclassify at any time. This provision allows for reclassification to area source status regardless of whether the reclassification occurs before or after the first substantive compliance date of a major source NESHAP.

Other commenters stated that the proposed provision in 40 CFR 63.1(c)(6) could be read to require all types of sources to obtain PTE limits in order to be reclassified to area source status. These commenters stated that this could be problematic for sources that were major at the first substantive compliance date of a particular NESHAP but are no longer within the definition of "major source" at the time of reclassification because the source's emissions of and PTE HAP are below the MST even in the absence of a governmental restriction on emissions in a PTE limit. The EPA agrees with the commenters that the language in the proposed provision can be clarified and has amended the language of 40 CFR 63.1(c)(6) in the final rule to read: "A major source may become an area source at any time upon reducing its emissions of and potential to emit (PTE) hazardous air pollutants, as defined in this subpart, to below the major source thresholds established in 40 CFR 63.2, subject to the provisions in paragraphs (c)(6)(i) and (ii) of this section." The provisions in 40 CFR 63.1(c)(6)(i) and (ii) as finalized in this action are discussed later in this preamble.

In the final regulatory language of 40 CFR 63.1(c)(6), the EPA replaced the phrase "limiting its potential to emit (PTE) hazardous air pollutants . . ." with the phrase "reducing its emissions of and potential to emit (PTE) hazardous air pollutants . . .". This updated language removes the ambiguity in the proposed language and makes it clear that PTE limits would be needed for area source reclassification for sources with PTE HAP at or above the MST. In contrast, consistent with the statutory definitions of "major source" and "area source" and the regulatory definition of PTE in 40 CFR 63.2, so called "true" area sources,[12] which in this preamble means sources that do not have the capacity to emit HAP at major source levels under their physical and operational design (even if the source owner and regulatory agency disregard any enforceable limitations), are not within the definition of "major source." These "true" area sources do not need to obtain enforceable PTE limits to be reclassified to area source status. Accordingly, sources that have permanently removed equipment, changed their processes, or by other means currently do not have a maximum capacity to emit HAP at major source levels are "true" area sources (*i.e.,* enforceable limits are not needed on the source's physical or operational design to restrict the source's PTE HAP below MST) and do not need to adopt PTE limits to be reclassified. Any source that adopts a physical or operational limit on its maximum capacity to emit (including requirements for the use of air pollution control equipment or restrictions on the hours of operations or on the type or amount of material combusted, stored, or processed) to limit its PTE HAP below the MST is not a true area source. These are often referred to as "synthetic" area sources.[13]

Relatedly, commenters claimed that the MM2A proposal did not appear to explain that the definition of "potential to emit" does not require enforceable limitations for restrictions on HAP emissions that are inherent in the physical or operational design of the production process. Note that the EPA recognizes that, on a case-by-case basis, a situation may warrant an assessment of whether a given device or strategy should be considered as air pollution control equipment or as an inherent part of the process.[14] That said, the final rule is not revising the EPA's view on how to determine "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design." Sources with questions about the proper way to determine PTE HAP or whether they should obtain PTE limits for reclassification to area source

[12] This preamble follows the convention about the meaning of these terms adopted in an EPA memorandum titled "*Potential to Emit (PTE) Guidance for Specific Source Categories*" (April 14, 1998), available at *https://www.epa.gov/sites/production/files/2015-07/documents/lowmarch.pdf.*

[13] We note that in the Oil and Natural Gas Federal Implementation Plan (O&NG FIP) in Indian County, "true area sources" include the reductions due to compliance with various NESHAP and new source performance standards (NSPS) standards, which are applicable requirements of the O&NG FIP. True minor sources in the oil and natural gas production and natural gas processing segments of the oil and natural gas sector are required to comply with the O&NG FIP instead of obtaining a source-specific minor source permit, unless a source chooses to opt out of the FIP and to obtain a source-specific minor New Source Review (NSR) permit instead under the "Federal Minor New Source Review (NSR) Program in Indian Country." See FIP for True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector. 81 FR 35944 (June 3, 2016).

[14] See *https://www.epa.gov/sites/production/files/2015-07/documents/readymix2.pdf.*

status are encouraged to consult applicable permitting program regulations and work with their corresponding regulatory authorities on a determination that considers their situation. See also, 40 CFR 63.10(b)(3), which explains in detail the analysis and contents of the records to be kept for applicability determinations made by a source for purposes of 40 CFR part 63.

Multiple commenters objected to the EPA's proposed viewpoint that a major source that had been complying with a NESHAP as of the first substantive compliance date of the standard, but reduced its PTE HAP below the MST by complying with non-section 112 CAA requirements, would be required to obtain HAP PTE limits to ensure that HAP emissions remain below the MST. These commenters argued the EPA should make clear in the final rule that a limitation on another pollutant or parameter can be recognized as a limitation on the source's potential to emit HAP if the limitation on the other pollutant emissions or parameter results, as a practical matter, in a restriction on the source's HAP emissions. The commenters noted that limits that qualify to reduce a source's PTE HAP emissions do not need to be "HAP PTE limits," *i.e.,* a requirement need not place limits directly on a HAP to have the effect of limiting a HAP. The commenters cited as example that volatile organic compound (VOC) limits could reduce HAP emissions and further stated that the EPA provided no explanation why requiring the source to obtain HAP PTE limits is essential to ensure that the area source's HAP emissions are effectively limited. The EPA recognizes that the proposal may have caused confusion about whether the EPA recognizes HAP reductions due to surrogate criteria pollutant controls for purposes of reclassifying to area source status.[15] That said, the EPA has concluded that it does not need to revise the regulatory text to make this specific point because the definition of PTE (as revised in this final rule) allows for the effect of such limitations to count toward limiting the PTE HAP. A source relying on the effect of non-HAP enforceable limitation to constrain its PTE HAP below the MST may need to show the regulatory authority processing the reclassification the effect of such limitation on the source's PTE HAP to confirm that such source has a PTE HAP that allows it to reclassify to area source status.[16] As explained before, the determination of a source's PTE HAP under the PTE definition in 40 CFR 63.2 requires consideration of any enforceable controls, including "nested" HAP usage limits in permits intended as enforceable VOC limits, and other enforceable non-HAP limitations within a permit that have the effect of reducing HAP emissions. To the extent that a source's PTE considering controls exceeds the MST, a source would need to obtain enforceable limitations constraining its PTE HAP below the MST in order to be reclassified to area source status. Finally, the revised language in 40 CFR 63.1(c)(6) that now states "reducing emissions and its potential to emit (PTE) hazardous air pollutants . . ." (as opposed to the proposed language stating "limiting its potential to emit (PTE) hazardous air pollutants . . .") supports the EPA's conclusion that the PTE regulatory definition means that enforceable limits on other pollutants can have the effect of reducing PTE HAP and can be the basis for reclassification. See also 40 CFR 63.10(b)(3) about the analysis and record contents.

Finally, some commenters asked the EPA to clarify what requirements apply to sources that reclassified before the effective date of this rule. These commenters asked the EPA to state in the final rule that sources that reclassified to area source status prior to the MM2A final rule would not be required to undertake any additional actions. To the extent that sources have reclassified before the effective date of this final rule, their ability to reclassify is governed by the plain language reading of the statute. We discuss the notification and recordkeeping requirements for sources that reclassified before the effective date of this final rule later in this preamble. In contrast, sources that reclassify after the effective date of this final rule are governed by the plain language reading of the statute and by the provisions being finalized in this final rule. In either case, a reclassification is not a safe harbor for the source if the limits taken do not effectively limit the HAP emissions and the source emits HAP in excess of the MST.

b. Compliance Dates for Applicable Standards

In the proposed language of 40 CFR 63.1(c)(6), the EPA included regulatory text addressing applicability of standards and other requirements under 40 CFR part 63 for sources that reclassify to area source status, including dates for compliance with standards and notifications requirements. Because sources must comply with requirements corresponding to their status, the proposed provision in 40 CFR 63.1(c)(6) specified, "Until the PTE limitations become effective, the source remains subject to major source requirements. After the PTE limitations become effective, the source is subject to any applicable requirements for area sources." In response to comments and to clarify the requirements associated with applicability of NESHAP requirements and the compliance dates for sources reclassifying to area source status, both before and after compliance with applicable major source NESHAP requirements, and for reclassified area sources that subsequently become major sources again, the EPA is consolidating these requirements in the final regulatory text at 40 CFR 63.1(c)(6)(i). The final provision also addresses the notification requirements for these sources. We discuss notification requirements below in section V.A.2 of the preamble.

The final regulatory text in 40 CFR 63.1(c)(6)(i)(A) addresses the applicability of standards and compliance dates for sources reclassifying to area source status either before or after being subject to major source requirements under 40 CFR part 63. The final regulatory text in 40 CFR 63.1(c)(6)(i)(B) addresses the applicability of standards and compliance dates for reclassified area sources that subsequently become major sources again. These final provisions are discussed below.

In this final rule, the EPA is updating the regulatory language in 40 CFR 63.1(c)(6)(i)(A) to include the applicability of standards and compliance dates for sources reclassifying to area source status. The final amended text in 40 CFR 63.1(c)(6)(i)(A) reads as follows: "A major source reclassifying to area source status under this part remains subject to any applicable major source requirements established under this part until the reclassification becomes

[15] See, *e.g.,* January 25, 1995, memorandum titled "*Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),*" also, memorandum, "*Crediting of Maximum Achievable Control Technology (MACT) Emission Reductions for New Source Review (NSR) Netting and Offsets,*" available at *https://www.epa.gov/sites/production/files/2015-07/documents/netnoff.pdf. See,* also, 81 FR 35944, explaining that HAP compliance reductions of volatile organic HAP to meet MACT may also result in emissions reductions of VOC.

[16] The EPA expects that state and local and tribal agencies will exercise care when drafting enforceable permit conditions in the situation where the "effect" of criteria pollutant limits will not be straight forward. See January 25, 1995, memorandum titled "*Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act).*"

effective. After the reclassification becomes effective, the source must comply with any applicable area source requirements established under this part immediately, provided the compliance date for the area source requirements has passed. The owner or operator of a major source that becomes an area source subject to newly applicable area source requirements under this part must comply with the initial notification pursuant to § 63.9(b). The owner or operator of a reclassified source must also provide to the Administrator notification of the change in the information already provided under § 63.9(b) per § 63.9(j).''

As stated in this provision, sources remain subject to any applicable major source requirements under 40 CFR part 63 ''until the reclassification becomes effective'' instead of the proposed language ''until the PTE limitations become effective.'' In the MM2A proposal, the EPA explained that reclassification to area source status is a voluntary action on the part of a source, and sources are required to apply with their corresponding regulatory authority and follow the corresponding authority's procedures to be reclassified to area source status. This includes sources that, at the time of reclassification, are no longer within the definition of ''major source'' because they are true area sources (as described above in the preamble), because they had already obtained PTE limits below the MST, or due to other enforceable compliance obligations under a permit, permit by rule, or State Implementation Plan (SIP). As explained elsewhere in this preamble, such sources are area sources under the CAA section 112 definition, but as a result of our previous policy they may continue to have enforceable permit conditions, including major source NESHAP requirements, for example, until their title V permit is revised or revoked in agreement with their permitting authority procedures.

Because reclassification to area source status currently occurs under a regulatory authority's area or minor source program, the reclassification of a source to area source status is effective when the corresponding regulatory authority grants a source's request to be considered an area source via a permit registration, permit by rule, applicability determination, etc. (As explained in this preamble, 40 CFR part 63 separately requires notification of the applicability of a standard and recordkeeping of information on the applicability determination decision.) We expect that the process for sources to reclassify to area source status for HAP will rely on existing programs (*e.g.,* minor source programs, title V permitting procedures, and/or approved programs for issuing PTE limits under CAA section 112(l)). Consistent with how regulation of area sources is currently implemented under CAA programs, the EPA expects that determinations of area source status or major source status, as requested by a source for reclassification, will occur in a single action or concurrently with permitting actions needed to reconcile the revised requirements for the source under the newly acquired status or as appropriate for permit closure or revocation. (A permitting authority program may have simpler, less burdensome processes for specific groups of sources.) The language finalized about the effective date of reclassification equitably considers the current implementation mechanisms and sources situation.

As proposed, the regulatory language in 40 CFR 63.1(c)(6)(i) stated that ''[a] major source that becomes an area source must meet all applicable area source requirements promulgated under this part immediately upon becoming an area source, provided the first substantive compliance date for the area source standard has passed, . . .'' Some commenters requested that the EPA include language in the final rule providing that sources reclassifying to area source status may meet the major source NESHAP requirements as a means of complying with newly applicable area source NESHAP requirements. The EPA is not including such language in the final rule. Any source that reclassifies to area source status is no longer subject to major source NESHAP requirements and is subject to area source NESHAP requirements instead. That said, the area source is not precluded from streamlining the applicable area source NESHAP requirements with permit terms from a previously applicable major source NESHAP standard if compliance with applicable area source NESHAP requirements is assured. Because the reclassification to area source status is a voluntary action on the part of the source, the source must evaluate the area source NESHAP requirements that will become applicable to the source at the time of the reclassification to area source status and be in a position to meet such requirements at the time it reclassifies.

In the regulatory language of 40 CFR 63.1(c)(6)(i)(A), the EPA is finalizing the proposed immediate compliance rule for major sources that reclassify to area source status. These sources will be subject to applicable area source NESHAP requirements in 40 CFR part 63 immediately upon reclassification to area source status, provided the compliance date for the area source requirements has passed. In the MM2A proposal, the EPA proposed to allow for additional time for compliance with applicable area source NESHAP requirements for particular situations. For reclassifications from major source to area source status, the EPA proposed that additional time (not to exceed 3 years) may be granted by the EPA (or a delegated authority) in a compliance schedule where an area source standard would apply to an existing source upon reclassification and different emission points would need controls or different emission controls would be necessary to comply with the area source standard or other physical changes would be needed to comply with the standard.

The EPA received many comments on the proposed immediate compliance rule, compliance extension provisions, and the process for obtaining a compliance extension. Some commenters agreed with the proposed immediate compliance rule for sources that reclassify to area source status, while others opposed the immediate compliance rule if the EPA did not include provisions to obtain a compliance extension. Commenters supporting the immediate compliance rule without compliance extension provisions argued that sources should be aware of applicable requirements and plan for timely compliance at the time they request reclassification. These commenters opposed the proposed compliance extension provision, noting that any provision to allow compliance at periods later than 3 years from a standard's effective date was unlawful and unnecessary. The commenters argued that CAA section 112(i)(3)(A) requires that compliance must be within 3 years of the effective date of the standard; furthermore, CAA section 112(i)(3)(A) requires compliance ''as expeditiously as practicable.'' The commenters argued that just because physical changes may be required for a source to comply with newly applicable area source NESHAP requirements, it does not mean that compliance cannot be achieved immediately upon reclassification. The commenters emphasized that CAA section 112(i)(3) is clear on the compliance schedule for existing sources; that the schedule is determined by the effective date of any emission standard, limitation, or regulation promulgated under CAA section 112; and that compliance has to be as expeditious as practicable, but in no event later than 3 years after the

effective date of such standard. On the other hand, some commenters stated that there may be a short period of time when a stationary source needs to discontinue compliance with a major source NESHAP requirement before complying with the area source NESHAP requirements to conduct testing and verify monitoring protocols or to physically install emission controls. These commenters argued that the rule should recognize the need for such exceptions to the requirement to comply immediately with the area source NESHAP requirements and that the regulatory authority must be able to consider all the relevant factors in allowing for a compliance extension. While the commenters stated that a stationary source would want an exception to discontinue compliance with major source NESHAP requirements for a short period of time in order to come into compliance with the new area source NESHAP requirements to which they will be subject immediately after reclassification, the commenters did not provide supporting evidence or concrete examples showing that there are real situations where such compliance exception is needed.

The EPA agrees with the commenters that the statutory language in CAA section 112(i)(3)(A) precludes the compliance extension as proposed. For this reason, the EPA is not finalizing the proposed compliance extension for sources reclassifying to area source status. If a source reclassifies to area source status in a source category for which there are applicable area source NESHAP requirements, and the effective date of such requirements has passed, the source must comply immediately upon reclassification. If the compliance date of the applicable area source NESHAP requirements is in the future, the source must comply by the future compliance date specified in the individual subpart. Because reclassification is a voluntary action on the part of the source, the immediate compliance requirement does not represent a compliance issue because a source could delay their reclassification until such time as they are able and equipped to meet the applicable area source NESHAP requirements.

In the MM2A proposal, the EPA included in the proposed provision at 40 CFR 63.1(c)(6)(ii) regulatory language addressing the compliance schedule for sources that reclassify between major and area source status more than once. The EPA proposed that "A major source subject to standards under part 63 that subsequently becomes an area source, and then later becomes a major source again by increasing its emissions to at or above the major source thresholds, must comply with the previous applicable major source requirements of this part immediately upon becoming a major source again . . ." The EPA also proposed a compliance extension provision for these sources: If the previously applicable standard has been revised since the source was last subject to the standard and, in order to comply, the source must undergo a physical change, install additional emission controls, and/or implement new control measures, the source will have up to the same amount of time to comply as the amount of time allowed for existing sources subject to the revised standard. The EPA received multiple comments on the proposed compliance schedule and compliance extension provision for reclassified area sources reverting to major source status.

Some commenters argued that there was no need for the EPA to address compliance timelines in the context of the MM2A rulemaking for sources that reclassify to area source status and then revert back to major source status. These commenters noted that the existing General Provisions in 40 CFR 63.6(c)(5) already include compliance dates for area sources that become major sources, and that by including compliance dates within the provision in 40 CFR 63.1(c)(6), the EPA was creating disparate compliance schedule requirements. Several other commenters agreed with the proposed immediate compliance rule for area sources reverting to major source status, stating that sources should be aware of applicable requirements and plan for timely compliance at the time they request reclassification. These commenters opposed the proposed compliance extension provision, noting that any provision to allow compliance at periods later than 3 years from a standard's effective date is unlawful and unnecessary. The commenters argued that CAA section 112(i)(3)(A) requires that compliance must be within 3 years of the effective date of the standard. In addition, the commenters pointed out that CAA section 112(i)(3)(A) does not allow additional time for a source that reverts to major source status when the applicable major source NESHAP has increased in stringency; thus, there is no reason for the proposed extension. The commenters noted that CAA section 112(g)(2) requires that any entity that modifies or constructs a major source first secure a determination that applicable maximum-achievable standards will be met. The commenters argued that any source that proposes to increase its emissions to exceed the MST should be required to plan sufficiently to comply with the applicable major source NESHAP requirements before it increases its emissions. These commenters stressed that it would be inappropriate to allow stationary sources to prolong compliance with applicable standards, and that allowing sources additional time for compliance could incentivize sources to continually shift stationary source applicability status to avoid complying with applicable NESHAP requirements. These commenters objected to any compliance extension, stating that any extension or consideration of special conditions would remove the protections in existing rules, allowing the public and environment to be exposed to increased HAP emissions.

Other commenters argued that the proposed immediate compliance provisions for sources that revert back to their previous major source status are onerous and seem to be designed to discourage sources from opting to become area sources. These commenters supported the proposed compliance extension provisions but noted that there is no justification to conditioning any extension to the immediate compliance requirement for these sources on an intervening change to the major source standard. They argued that this appeared to be a backdoor attempt to force sources opting to become area sources to continue using major NESHAP add-on controls in case they might need to become a major source again, and that this is something for which the EPA lacks authority. Some commenters supported the immediate compliance rule if appropriate exceptions are made in the final rule and it includes a reasonable process for requesting an extension. The commenters recommended that the compliance extensions be left to the air pollution control agencies and that the EPA should not try to define what changes would be eligible for a longer compliance period, thus, eliminating unnecessary EPA oversight of the process for area sources and simplifying the procedures for acquiring additional compliance time. Finally, the commenters stated that a source that once was a major source may, for example, maintain its area source status for 20 years before seeking to become a major source again; for this source, many things may have changed while it was an area source, including process changes that render the previous compliance approach inapplicable or

require the source to comply in different ways.

The EPA agrees with the commenters that stated that the statutory language in CAA section 112(i)(3)(A) is properly read to preclude the proposed compliance extension for sources that revert back to their previous major source status and are subject to major source requirements for which the compliance date of such requirements has passed. These sources must comply with the major source requirements immediately, even if faced with the circumstances listed in the proposal (needing to "undergo a physical change, install additional emissions controls and/or implement new control measures" in order to meet the applicable NESHAP requirements). In the circumstance where a source is reverting back to major source status for which there are applicable major source NESHAP requirements and the compliance date of such requirements at the time of reclassification is still in the future, the source needs to comply with such requirements by the future compliance date specified in the individual subpart. In sum, a source should not reclassify (in either direction) until it is ready to meet the requirements that are imposed by the new classification.

For the reasons explained above, the final regulatory text included in 40 CFR 63.1(c)(6)(i)(B) addresses the applicability of standards and compliance dates for reclassified area sources that subsequently become major sources again. In this provision, the EPA is finalizing the proposed immediate compliance rule for area sources that become major sources again, if they were previously major sources under 40 CFR part 63. The EPA has amended the language to read as follows: "An area source that previously was a major source under this part and that becomes a major source again must comply with the applicable major source requirements established under this part immediately upon becoming a major source again, provided the compliance date for the major source requirements has passed, notwithstanding any other provision within the applicable subparts. The owner or operator of a source that becomes a major source again must comply with the initial notification pursuant to § 63.9(b). The owner or operator must also provide to the Administrator any change in the information already provided under § 63.9(b) per § 63.9(j)." This updated final provision in 40 CFR 63.1(c)(6)(i)(B) for reclassified area sources that subsequently become major sources again covers both situations of sources that reclassify back to major source status: (1) Major sources that reclassify to area source status prior to being subject to major NESHAP requirements (including sources that reclassified under the OIAI policy) and then return to major source status and (2) major sources that reclassify to area source status after being subject to major NESHAP requirements and then return to major source status. On the other hand, the compliance dates for area sources that never operated as major sources previously (including sources constructed with enforceable controls or other type of enforceable PTE limits) but that increase emissions or PTE and become major sources for the first time are governed by the provisions in the individual NESHAP (which are not being amended in this rule) and not the provisions applicable to reclassified area sources that return to major source status that are being finalized in this action. The EPA is also finalizing amendments to 40 CFR 63.6(c)(1) to account for the immediate compliance rule as included in the final revisions to 40 CFR 63.1(c)(6)(i)(A) and (B) as discussed above.

Finally, while some commenters requested assurance that if sources revert back to their previous major source status, sources will not be considered new sources, others argued the EPA should expressly provide that relaxation or elimination of a PTE limit that results in the source becoming a major source requires that the source comply with CAA section 112 NESHAP requirements for a new source. These commenters asserted that as a result of a loophole in the existing 40 CFR part 63 regulations, some sources and states are currently under the impression that a source can have its original PTE limit taken at the time of construction relaxed or eliminated without triggering the requirement to comply with major source NESHAP requirements that would have otherwise applied to the source when it was built. This confusion could have arisen from the text in 40 CFR 63.6(c)(5) stating that "the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source shall be subject to relevant standards for existing sources." As explained in section IV of this preamble, the CAA section 112 definitions of "new source" and "existing source" dictate that the new source/existing source distinction is determined by when the affected source commences construction or reconstruction with respect to the date of proposal of the standard and say nothing about the source's volume of emissions. For this reason, the EPA disagrees that a source reclassifying to major source status after having previously been subject to the major source standards would necessarily be classified as an existing source. The EPA also disagrees with commenters that a reclassifying source would necessarily be a new source for purposes of determining which standard applies. Whether an affected source is new or existing for purposes of compliance with an applicable NESHAP is dictated by when the source commenced construction or reconstruction in relation to when the applicable NESHAP was proposed and not whether the status of the source is major or area.

Moreover, the regulatory text at 40 CFR 63.6(c)—Compliance dates for existing sources—applies only to "existing sources." Therefore, the regulatory language at 40 CFR 63.6(c)(5) states that "the owner or operator of an [existing] area source that increases its emissions . . . shall be subject to relevant standards for existing sources." The intent of 40 CFR 63.6(b)(7) and (c)(5) was further explained in the preamble for the March 23, 2001, rule that proposed revisions to 40 CFR 63.6(b)(7) and (c)(5) (66 FR 16328),[17] "[w]e are proposing to revise 63.6(b)(7) and (c)(5) to require new source MACT only on affected sources that commenced construction or reconstruction after the proposal date of the NESHAP . . . Affected sources at former area sources that become major that have not constructed or reconstructed *after the proposal date of the NESHAP* (emphasis added) would be subject only to existing source MACT . . . ." Again, each NESHAP provides the dates that determine whether a source is a new source or an existing source. A source's status of new or existing is determined by dates given in each individual NESHAP, and that does not change when a source reclassifies. If a major source reclassifies to area source status after being subject to new major source NESHAP requirements and then returns back to major source status, the sources that were originally subject to new source requirements would once again be subject to new source requirements. In light of these comments, the EPA is including in the final rule amendments to 40 CFR 63.6(b)(7) and (c)(5) to reflect the new or existing status of sources that become major sources as being determined by

[17] These provisions were finalized on April 5, 2002 (See 67 FR 16582).

the dates provided in the applicable subparts and to also reflect the immediate compliance rule as finalized in 40 CFR 63.1(c)(6)(i)(B) for reclassified area sources that revert back to major source status. The amendments to 40 CFR 63.6(b)(7) read as follows: ''When an area source increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source, the portion of the facility that meets the definition of a new affected source must comply with all requirements of that standard applicable to new sources. The source owner or operator must comply with the relevant standard upon startup.'' The amendments to 40 CFR 63.6(c)(5) read as follows: ''Except as provided in paragraph (b)(7) of this section, the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source and meets the definition of an existing source in the applicable major source standard shall be subject to relevant standards for existing sources. Except as provided in § 63.1(c)(6)(i)(B), such sources must comply by the date specified in the standards for existing area sources that become major sources. If no such compliance date is specified in the standards, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in the relevant standard for existing sources in existence at the time the standard becomes effective.''

c. Reclassifications and Enforcement Actions

In the MM2A proposal, the EPA included regulatory language in the MM2A applicability provision in 40 CFR 63.1(c) to address the interaction of the reclassification of sources and potential enforcement actions. Specifically, we noted reclassification of a source from major to area source status would not absolve a source of prior liability for noncompliance. Although sources that are the subject of an investigation or enforcement action may still seek area source status for purposes of future applicability, such sources remain liable for any previous or pending violations of the CAA that occurred prior to the reclassification. Enforcement of major source requirements could include penalties, mitigation for illegal emissions, and/or other remedies to address noncompliance. Accordingly, a source cannot use its new area source status as a defense for major source NESHAP violations that occurred prior to its reclassification. Similarly, becoming a major source does not absolve a source subject to an enforcement action or investigation for area source violations from the consequences of any actions occurring when the source was an area source.

Multiple commenters agreed with the premise that a major source that reclassifies should not be absolved from potential enforcement actions that occurred prior to the reclassification. However, some commenters argued that if a major source is rightfully an area source at the time of an alleged violation, then the source should not be subject to enforcement as a major source. Other commenters argued that it is also appropriate for the EPA to consider the misclassification of a major source instead of the appropriate area source classification, and the requirements for major sources versus area sources, and to examine a past violation to determine if the source actually violated the requirements of the classification under which the firm should have been registered.

One commenter recommended that the EPA add language to 40 CFR 63.1(c)(6) that would allow for modification of an enforcement order affecting a reclassified source if the enforcement order was based on the enforcement authority's finding that the source was a major source or based on the application of the OIAI policy. The commenter argued that the EPA's proposed new language in 40 CFR 63.1(c)(6) would leave unclear whether it is the EPA's intent that: (1) Such a source can never apply to the enforcement authority for relief from such obligations (which often include obligations imposed pursuant to a court's equity jurisdiction or that otherwise fall outside the universe of obligations specified in the NESHAP) in exchange for accepting restrictions on its PTE in order to become a synthetic HAP area source; or (2) the enforcement authority can never enter into a modification of the order, settlement, or decree that grants such relief. The commenter argued that this lack of clarity could result in foreclosure of such relief in future proceedings that are informed by the final rules, depending on the EPA's posture at the time and the deference that is sometimes given to agencies' interpretations of their own regulations.

The commenter argued that because the EPA has withdrawn the OIAI policy on the grounds that it was inconsistent with ''the plain language reading of the 'major source' and 'area source' definitions of section 112'' of the CAA, then it stands to reason that: (1) No historical application of the OIAI policy in the formulation of enforcement orders and negotiation of settlement agreements and consent decrees was ever lawful or appropriate; and (2) orders, agreements, and decrees that were imposed or negotiated based materially on the OIAI policy ought to be subject to retroactive review, on a case-by-case basis and subject to the needs of the particular case, upon application by the respondent for a modification of the instrument. Finally, a commenter argued that the EPA should explicitly state in its regulations that the consequence of violating PTE limitations is the requirement to comply with the applicable major source NESHAP requirements—in addition to an appropriate penalty for violating the PTE limitations.

In the MM2A proposal, the EPA included regulatory language in the proposed MM2A applicability provision in 40 CFR 63.1(c)(6) stating that reclassification from major source to area source does not affect a source's liability or any enforcement investigations or enforcement actions for a source's past conduct or violations of major source requirements that occurred prior to the effective date of the source's enforceable limitations (*i.e.,* the reclassification). This rule revision underscores the importance of a source's PTE in determining NESHAP, 40 CFR part 63, applicability. The plain language reading of the definitions of ''major'' and ''area'' source in section 112 of the CAA as explained in the 2018 MM2A Memorandum and implemented through this rulemaking does not change the Agency's position that a source may take enforceable production and/or operational limits to effectively constrain its PTE and, thereby, avoid applicability. Rather, it eliminates the timing constraint imposed by the OIAI policy as to when a source may take such limits to avoid applicability. If, before taking such limits to avoid applicability, a source emitted a single HAP in an amount of 10 tpy or greater, or emitted any collection of HAP in an amount of 25 tpy or greater, or it is determined that the source has (or had) a PTE that meets or exceeds these amounts, the source would be considered a major source and subject to the requirements of 40 CFR part 63 (as applicable) up and until the effectiveness of the limits. The same holds true after taking such limits to avoid applicability. That is, even after taking such limits, if a source emits a single HAP in an amount of 10 tpy or greater, or emits any collection of HAP in an amount of 25 tpy or greater, or it is determined that the source has (or

had) a PTE that meets or exceeds these amounts, the source would be considered a major source and subject to the requirements of 40 CFR part 63 (as applicable). Now, as before, any time a source operates as a major source, it must meet the applicable major source requirements in 40 CFR part 63. Neither this rule, nor the 2018 MM2A Memorandum, intends to allow a source that emits (or has the PTE) greater than the MST to avoid compliance with applicable requirements for major sources. Any source that operates without complying with the applicable requirements is subject to enforcement. The revision proposed at 40 CFR 63.1(c)(6) underscores the EPA's position that unless, and until, a source has enforceable production and/or operational limits that effectively limit a source's PTE (and are not just chimeras that do not really restrain an operator from emitting pollution in amounts equal to or exceeding the major source thresholds), the source is a major source and must comply with the major source requirements (as applicable). The D.C. Cir. said as much in its review of the 2018 MM2A Memorandum, *California Communities Against Toxics, et al.* v. *EPA,* 934 F.3d. 627, 638–639 (D.C. Cir. 2019), ("Major sources must obtain a permit in order to operate, and unless and until that permit is amended or set aside, the stringent requirements set forth therein must be complied with while that equipment is operational. The [MM2A Memorandum]itself does not revoke or amend a single permit.")

Any order, settlement, or decree (collectively, agreements) issued or entered into addressing a source's compliance with the requirements of NESHAP, 40 CFR part 63, is not affected by this rule or the 2018 MM2A Memorandum. Those agreements were entered into based on the specifics of each case. Reopening or modification of settlements approved by, or orders issued by, federal courts is governed by the Federal Rules of Civil Procedure (F. R. Civ. P. Rule 60). Nothing in this final rule is intended to suggest that any of the prerequisites for reopening any judicial or administrative settlement or modifying a prior order of a court (including orders approving settlements) have been met. There is no additional clarification needed regarding these authorities. While the OIAI policy may have informed the contours of those agreements, it did not (and, in fact, could not) change the statutory basis for those enforcement actions. These agreements reflect a mutual understanding of the parties that settlement is in the interest of all involved after taking into account the legal and factual circumstances at the time of the settlement. Accordingly, the EPA is finalizing the regulatory language in 40 CFR 63.1(c)(6)(ii) addressing the interaction of the reclassification of sources with enforcement actions as proposed.

d. Reclassifications and Operation of Add-On Pollution Control Equipment

After the issuance of the MM2A Memorandum, some stakeholders were concerned that if sources were to reclassify to area source status, they could stop using the add-on emission control equipment or emission reduction practices implemented for major source NESHAP compliance or no longer maintain the same level of control efficiency as before. At proposal, the EPA requested comments on whether facility owners or operators of sources that reclassify will cease to properly operate their add-on control devices where the operation of the add-on control device is needed to restrict the PTE and appropriate monitoring, recordkeeping, and reporting (MRR) are established as enforceable conditions.

In the proposal, the EPA explained that a source seeking reclassification because it has reduced its HAP emissions to below the MST through use of add-on control devices or emission reduction practices implemented for compliance with major source NESHAP requirements will need to demonstrate to the regulatory authority issuing the PTE limits the degree to which the add-on control devices and emission reduction practices are needed to restrict the source's PTE. In the absence of the applicability of the major source NESHAP requirements, if the source relies on its existing NESHAP add-on control devices and/or emission reduction practices to limit its HAP PTE below the MST, the use of these control devices and/or emission reduction practices must be made enforceable under a permitting authority's legal mechanism. Alternatively, if a source intends to stop using the add-on control device equipment or emission reduction practices used to comply with a previously applicable major source NESHAP requirement, the source must demonstrate that other physical controls or operational limits that the source adopts will restrict the source's actual emissions and maximum capacity to emit HAP below the MST and that these limits are or can be made enforceable to ensure that the source will not emit or have the potential to emit HAP at or above the MST.

Some commenters argued that there is no reason to believe that facility owners or operators would cease to properly operate their add-on control devices where the operation of the control is needed to restrict the PTE and appropriate MRR are established as enforceable conditions. Similarly, some commenters asserted that sources that achieve area source status through compliance with MACT have significant disincentives to alter their control measures to increase emissions thereafter. They argued that HAP emissions control devices are not designed to achieve partial emissions reductions; rather, they are designed to reduce emissions by a specified efficiency rate and a source that already has invested in controls for the purpose of major source MACT compliance is unlikely to cease using them or remove them in favor of less-effective measures to limit its HAP emissions—especially if the source's reclassification to area source status is contingent upon compliance with an enforceable PTE limit.

On the other hand, other commenters expressed concern with the EPA statement in the proposal saying that "it has no reason to believe, and does not anticipate" that sources will cease operating their control devices and hence increase emissions as a result of the MM2A action. One commenter argued that the EPA has collected insufficient data and included no explanation to support what the commenter called an "economically irrational conclusion." The commenter argued that the EPA has not acknowledged the financial incentives to reduce usage of expensive control devices.

Commenters arguing that sources will reduce control device operation and emission monitoring if the major source NESHAP requirements no longer apply stated the EPA must include in the final rule conditions requiring the continued use of add-on controls and conditions ensuring that monitoring and parametric limits are adequate to meet the required destruction efficiencies needed for sources to constrain their PTE and emissions at area source levels. These commenters argued that without such requirements, sources that reclassify are likely to operate the control device only part of the year. They claim sources will make cost-saving business decisions to turn off controls for several months a year or use less-effective controls to remain just below the MST. Some commenters summarized, as an example, the information collected by the EPA to justify the monitoring requirements for flares in the NESHAP

for Petroleum Refineries and described how, without rigorous monitoring, flare efficiency could be highly variable and substantially lower than 98 percent. The commenters also argued that the EPA cannot assume that other control devices, such as fabric filter baghouses and electrostatic precipitators, would be as effective once the major source NESHAP operating limits or monitoring requirements no longer apply. The commenters argued that the EPA must require the facility to periodically perform source tests to verify that the restriction actually correlates with emissions that are below the MST. The commenters further argued that without requirements ensuring proper operation, maintenance, and monitoring of add-on controls, sources will stop consistently operating the control devices that limit the release of HAP and allow the sources to reclassify to area source status.

The EPA sees these comments as pertaining to the proposed effectiveness criteria of PTE limits. In particular, the EPA may consider provisions concerning the operation and monitoring of add-on controls in the context of the criteria for ensuring that a PTE limit used to reclassify from major source to area source status is practicably enforceable. As discussed later in section VII of the preamble, the EPA is not taking action on the proposed amendments to 40 CFR 63.2 at this time and is continuing to consider the comments received on this aspect of the MM2A proposal. The EPA intends to take final action on this aspect of the MM2A proposal in a separate final action at a later date.

2. 40 CFR 63.9 Notification Requirements

In the MM2A proposal, the EPA included language in the reclassification provision in 40 CFR 63.1(c)(6) specifying that sources reclassifying must comply with the notification requirements of 40 CFR 63.9(b) and (j). The EPA also proposed to clarify the notification requirements for sources reclassifying by amending 40 CFR 63.9(b) so that an owner or operator of a facility must notify the Administrator of any standards to which it becomes subject. The proposed amendment covers situations where a source reclassifies from major to area source status and where a source reclassifies from major to area and subsequently reverts back to major source status. The EPA also proposed to clarify that a source that reclassifies must notify the EPA of any changes in the applicability of the standards to which the source was subject per the notification requirements of 40 CFR 63.9(j).

Most of the commenters supported the proposed amendments to the notification provisions in 40 CFR 63.9(b) and (j), but a few disagreed that the established General Provisions require notification when going from being subject to not being subject. Other commenters requested that the EPA reduce the number of duplicative notifications and simplify the regulatory authorities that must review 40 CFR 63.9(j). Other commenters requested clarification between notification provisions within individual NESHAP that allow for 120 days for notification versus the 15-day notification in the General Provisions in 40 CFR 63.9(b) and (j). These commenters asked the EPA to clarify the differences between these requirements, harmonize the reporting requirements, and minimize duplicative requirements. The EPA disagrees that the General Provisions do not require a notification when a source is no longer subject to a standard. The provisions of 40 CFR 63.9(j) are applicable to a change in information already provided. The change in a source's status from major to area (or vice versa) is a change in the information provided that determined the initial status of the source as subject to the major or area source standards. This is different from the initial notification required by 40 CFR 63.9(b), as that provides the relevant information to the Administrator of the newly governed provisions and is required to be submitted, per 40 CFR 63.9(b)(2), no later than 120 days after the source becomes subject. The notification of a change in information already required within 15 days is a result of the previously applicable standard. There are cases for which there is no applicable area source standard; the notification required by 40 CFR 63.9(j) is the only notification that would be submitted in those cases. These requirements in two provisions do not require harmonizing, as they are due to different NESHAP subparts being applicable and are not duplicative.

The EPA is finalizing the reclassification provision in 40 CFR 63.1(c)(6) notification requirements as proposed for both major sources that reclassify to area source status and area sources that revert back to major source status. The EPA is also finalizing the proposed amendments to 40 CFR 63.9(b) so that an owner or operator of a facility must notify the Administrator of any standards to which it becomes subject. Further, for clarity, the EPA has finalized at 40 CFR 63.9(j)(i)–(iv) the data elements that a reclassifying source must provide in the notification of a "change in information already provided" required under 40 CFR 63.9(j). Finally, the EPA is clarifying that the notification requirement of 40 CFR 63.9(j) is an existing requirement. Thus, the EPA requires any source that reclassified after January 2018 (issuance of the 2018 MM2A Memorandum) and before the effective date of this final rule that has not yet provided the notification of a change in information per 40 CFR 63.9(j) to provide such notification within 15 calendar days after the effective date of this final rule.

For the notification requirements in 40 CFR 63.9(b) and (j), the EPA also proposed to require sources that reclassify to submit the notification electronically through CEDRI. The EPA proposed amending the General Provisions to add 40 CFR 63.9(k) to include the CEDRI submission procedures. Several commenters support using CEDRI for notification of status changes. Some commenters requested the EPA to clarify that the new requirements in 40 CFR 63.9(k) only apply when a facility is reclassifying from a major source to an area source or from an area source to a major source, so regulatory authorities could not conclude that all notifications or reports should be done using CEDRI. Some commenters strongly supported the Agency providing this information to the public. While the EPA agrees that the provisions of 40 CFR 63.9(k) only apply when specifically directed there from another provision, as stated in 40 CFR 63.9(k), "[i]f you are required to submit notifications or reports *following the procedures specified in this paragraph (k),*" (emphasis added), we do not believe that further clarification within the regulatory language is necessary. We are finalizing this provision as proposed requiring sources that reclassify to submit the notification electronically through CEDRI. Additionally, the EPA has clarified that sources that reclassify between January 25, 2018, and the effective date of this final rule also must submit the notification through CEDRI. The EPA acknowledges the support for the public availability of the notifications and notes that the submitted notifications, along with any other notifications and reports submitted through CEDRI, become available to the public through the WebFIRE database (*https://www.epa.gov/electronic-reporting-air-emissions/webfire*) after time for review and approval by the regulatory agencies.

Multiple commenters recommended that the EPA should clarify CEDRI reporting. One commenter indicated that notification is not delegable and

needs to adjust the language in 40 CFR 63.13 that requires submittal of information to Regional offices at specific addresses. The commenter pointed out that the proposed CEDRI reporting makes this requirement excessive and the regulatory text should be fixed to remedy the requirement of reporting in triplicate (Regional offices, CEDRI, Administrator/state). The commenter noted that the last sentence of 40 CFR 63.12(c) does not address this issue and should be deleted/altered to avoid reporting in triplicate. Another commenter indicated that a separate notification to state agencies should be sent directly to the permitting agency. The commenter requested that the following paragraph be added to 40 CFR 63.9(k):

"If a state or local permitting agency has received delegation for a Part 63 standard that requires you to submit notifications or reports and that permitting agency requires, by way of statute, rule, policy, guidance, permit, or other mechanism, that such notifications or reports must be submitted also to the permitting agency, then such notifications and reports must be submitted to the permitting agency as well as to CEDRI."

The EPA agrees with the commenters that the language at 40 CFR 63.13 and 63.12(c) was not clear that submission to CEDRI, when required by regulation, fulfills the obligation of submittal to the EPA Regional office. Therefore, the EPA is finalizing at 40 CFR 63.13 a clarifying statement that when required by 40 CFR part 63, the submission of a report or notification to CEDRI fulfills the obligation of reporting to the EPA Regional office. The EPA does not agree that additional language to reflect that reporting to a delegated agency is required in addition to reporting to CEDRI, as that is implicit in 40 CFR 63.12(c), which requires that all information required to be submitted to the EPA be submitted to the delegated authority. The manner of submission is at the discretion of the delegated authority, but the reports and notifications that are required to be submitted to the EPA electronically through CEDRI must be delivered to the EPA through CEDRI. However, delegated authorities have the discretion to consider the submission to CEDRI as meeting the requirement to submit the report to them.

In the MM2A proposal, the EPA identified two broad circumstances in which extensions of the timeframe for electronic submittal may be provided. In both circumstances, the decision to accept the claim of needing additional time to submit is within the discretion of the Administrator, and submittal should occur as soon as possible. The EPA provided these potential extensions to protect owners or operators from noncompliance in cases where they cannot successfully submit a notification by the submittal deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's Central Data Exchange or CEDRI that preclude an owner or operator from accessing the system and submitting a required notification is addressed in 40 CFR 63.9(k)(1). The situation where an extension may be warranted due to a *force majeure* event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit electronically as required by this rule, is addressed in 40 CFR 63.9(k)(2). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. Finally, the EPA also proposed to amend 40 CFR 63.12(c) to specify that a delegated authority may not exempt sources from reporting electronically to the EPA when stipulated by this part.

One commenter recommended that the CEDRI late-notification language in proposed 40 CFR 63.9(k)(1) and (2) should be stricken because air pollution control agencies already have experience in using enforcement discretion for addressing late notifications and that discretion should not be codified or limited by regulation. The commenter also argued that the full range of circumstances that could legitimately cause a late notification cannot be covered by the regulation, and the discretion to grant an extension should not be solely within the discretion of the Administrator. Another commenter did not support the proposed additional requirements detailing when late notifications are forgiven for a *force majeure* event or federal EPA computer glitch but not in other meritorious situations. Another commenter suggested that time extensions for electronic reporting should be allowed for circumstances other than CEDRI outage and *force majeure* events, which allow for other situation-specific reasons that may impact the reasonable ability of a facility to achieve timely electronic reporting.

The EPA disagrees with the commenter that the reporting extension allowance for *force majeure* and CEDRI outage should be stricken. Granting an extension is at the discretion of the Administrator, which is defined in 40 CFR 63.2 to be "the Administrator of the United States Environmental Protection Agency or his or her authorized representative (*e.g.,* a State that has been delegated authority to implement the provisions of this part)." The extension provision does not remove the authority of an air pollution control agency to grant an extension for those subparts for which they have been delegated authority. Further, the EPA disagrees with the commenters that other situations that are not included in these provisions are excluded from obtaining an extension to their reporting deadline. The extension provisions as proposed and finalized are limited to those circumstances out of control of the facility and provide clear direction on the process for requesting an extension. Facilities may still engage with the Administrator on any delays in submittal not specifically covered under the CEDRI outage or *force majeure* provisions. After consideration of public comments, the EPA is finalizing the extension provisions as proposed.

The electronic submittal of the notifications addressed in this rulemaking will increase the usefulness of the notification; is in keeping with current trends in data availability and transparency; will further assist in the protection of public health and the environment; will improve compliance by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance and the applicability of major and area source standards to a facility; and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic submittal also eliminates paper-based, manual processes, thereby saving time and resources and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [18] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [19] developed in response to the White House's Digital Government Strategy.[20] For more information on the

[18] The EPA's "*Final Plan for Periodic Retrospective Reviews,*" August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[19] "*E-Reporting Policy Statement for EPA Regulations,*" September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[20] "*Digital Government: Building a 21st Century Platform to Better Serve the American People,*" May 2012. Available at: *https://*

Continued

benefits of electronic reporting, see the memorandum, "*Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,*" available in Docket ID No. EPA–HQ–OAR–2019–0282.

3. 40 CFR 63.10 Recordkeeping and Reporting Requirements

In the MM2A proposal, the EPA proposed to amend the recordkeeping requirements for applicability determinations in 40 CFR 63.10(b)(3) by adding text to clarify that this requirement applies to an owner or operator with an existing or new stationary source that is in a source category regulated by a standard established pursuant to CAA section 112 but that is not subject to the relevant standard because of enforceable limitations on the source's PTE. Specifically, the EPA proposed removing the time limit for record retention in 40 CFR 63.10(b)(3) and requiring that the records be maintained until the source becomes an affected major source subject to major source requirements under 40 CFR part 63.

Many commenters supported the proposed amendment to remove the time limit for record retention such that sources that obtain new enforceable PTE limits are required to keep the required record of the applicability determinations for as long as the source continues to be an area source based on PTE limitations. While many commenters agreed with the removal of time limit in 40 CFR 63.10(b)(3), some commenters argued that major sources that reclassify to area sources should not be subject to additional recordkeeping requirements that do not apply to other area sources. These commenters argued that the EPA should not revise the 5-year record requirement for the applicability determinations because the EPA has not provided a proper justification for adding this requirement for "reclassified" area sources. The commenter noted that the EPA has not described any issue with respect to compliance of PTE limits and emission-standard applicability that arose from the existing 5-year recordkeeping requirement, nor has the EPA explained why area source recordkeeping requirements should differ based on temporal considerations. The commenters noted that title V major sources are subject to a 5-year records requirement for all applicability determinations used to support identification of applicable requirements and application of the title V permit shield, and this is consistent with the statute of limitations that generally allows only a 5-year period to enforce against alleged violations. The commenter argued that the EPA has not explained why area sources should be subject to more stringent recordkeeping requirements. These commenters stated that the change in the requirement would impose a burden on the facility without additional environmental protection, because 5 years is sufficient time considering that sources still need to report annually that they are in compliance. Some commenters also noted that if the EPA or an air pollution control agency has reason to doubt any source's exempt status, they can take action under CAA sections 113 and 114 or state/local/tribal "Open Records" analogs to obtain the necessary information.

The EPA disagrees that the extended recordkeeping requirement as proposed applies disproportionately to reclassifying area sources or has any temporal consideration. The requirement to retain the applicability determination applies to all area sources that require an enforceable limitation on the source's potential to emit to not be subject to a relevant standard or other requirement established pursuant to CAA section 112. The requirement for an applicability determination is only relevant to these sources; the applicability determination itself, rather than the recordkeeping requirement, is the determining factor. The extension of the recordkeeping requirement is in the best interest of the source relying on an applicability determination to avoid CAA section 112 major source requirements, as many sources will rely on such determination for an extended period of time that can last beyond the 5 years. The EPA disagrees with the commenters that the revised record retention requirements are unnecessary due to annual reporting requirements. While many sources may have annual or semiannual reporting requirements after reclassifying into an area source rule, there are some major source NESHAP that do not have a corresponding area source standard. For these sources, the retention of the applicability determination enables the source to easily demonstrate that the major source standard does not apply without the potential additional burden of re-creating the applicability determination. The EPA agrees with the commenter that the EPA under CAA sections 113 or 114, and air pollution control agencies under their analogs, have the authority to request the necessary information; however, the retention of the applicability determination while the source continues to be an area source based upon that PTE limit and applicability determination provides a lesser burden to facilities compared to potentially re-creating the applicability determination. For the reasons presented above, the EPA is finalizing removing the time limit for record retention in 40 CFR 63.10(b)(3) and requiring that the records be maintained for as long as the source continues to be an area source based on PTE limitations.

Other commenters requested clarification as to whether the amended recordkeeping requirement applies to sources that became area sources prior to the first substantive compliance date of a NESHAP standard or that reclassified after the 2018 MM2A Memorandum. In the preamble of the MM2A proposal, the EPA stated that this amendment was directed to sources that obtain new enforceable PTE limits. The EPA agrees that the proposed language was unclear as to the applicability of the recordkeeping provisions on sources with applicability determinations preceding the date of proposal. We have amended the regulatory text in 40 CFR 63.10(b)(3) clarifying that the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years or until the source changes its operation to become an affected source subject to the relevant standard or other requirement established under this part, whichever comes first if the determination is made prior to January 19, 2021. For a determination made on or after January 19, 2021, the owner or operator must keep a record of the applicability determination until the source changes its operations to become an affected source subject to the relevant standard or other requirement established under this part. The EPA does, however, strongly recommend that all facilities retain their applicability determination for the time that the source continues to be an area source based upon that PTE limit and such applicability determination.

In addition to the removal of the time limit for record retention, the proposal amended the text that describes the record of the applicability determination. In particular, the proposal clarified that the record must include an "emissions" analysis (or other information) that demonstrates the owner or operator's conclusion that the source is not subject to major source requirements. The analysis (or other

obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.

information) must be sufficiently detailed to allow the Administrator to make an "applicability" finding for the source with regard to the relevant standard or other requirements.

With regard to the analysis for applicability determinations, some commenters expressed concern with the language that the applicability determinations "should be performed in accordance with EPA guidance materials." The commenters stated that the language is vague and could create binding requirements that are not legislative rules and have not gone through required notice-and-comment rulemaking. The commenter suggested that the EPA should indicate that this is a recommendation rather than a requirement by stating: "EPA recommends that the analysis be performed in accordance with EPA guidance materials . . . ." The EPA disagrees that further clarification is necessary regarding the use of guidance documents in this context, as the use of EPA guidance materials was an element of the existing provisions of 40 CFR 63.10(b)(3). However, to avoid creating the impression of additional requirements being imposed due to the proposed edits to the language, the EPA is retaining the sentence of 40 CFR 63.10(b)(3), which states: "If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under CAA section 112, if any," as currently exists in the existing provision without finalizing the changes proposed to it.

The commenters also suggested that the EPA clarify the applicability determination analysis for specific situations, and others advised that additional guidance could be incorporated into the regulation or the preamble to the final rule to recognize that sources often need to use best engineering judgment to estimate emissions from minor sources when assessing the PTE of a whole facility. The commenters then recommended that the EPA indicate that the level of detail and precision for potential to emit calculations can be lower for operations that contribute a relatively small amount to total facility HAP emissions. The wording in the proposed amendments are intended to clarify and to promote better understanding of the current recordkeeping requirements. The EPA did not propose a new view on how to estimate PTE and, relatedly, on how to do major source applicability determinations. In section VII of this preamble, we include references to our PTE guidance that may be of help to parties with questions about the EPA's views on these issues.

The EPA also proposed to amend the recordkeeping requirements for records submitted through CEDRI by adding 40 CFR 63.10(g) to clarify that the records submitted through CEDRI may be maintained in electronic format. As proposed, this provision does not remove the requirement for facilities to make records, data, and reports available upon request by a delegated air agency or the EPA. We are not finalizing the proposed addition of 40 CFR 63.10(g) because the provision is redundant with 40 CFR 63.10(b)(1), which allows for storage of records on computer.

B. Amendments to Individual NESHAP General Provisions Applicability Tables

The EPA proposed to amend the General Provisions applicability tables contained within most subparts of 40 CFR part 63 to add a reference to a new reclassification provision contained in 40 CFR 63.1(c)(6) discussed in the section V.A of this preamble and add a reference to reflect the proposed CEDRI submission procedures of 40 CFR 63.9(k) discussed above in section V.A of this preamble. We are finalizing the amendments to the General Provisions applicability tables as proposed. Additionally, the EPA identified four subparts containing the General Provision applicability requirements which did not properly reference the notification provisions. These subparts are 40 CFR part 63 subparts G, H, II, and YY. Accordingly, we are also finalizing revisions to these applicability requirements of 40 CFR part 63 subparts G, H, II, and YY to account for the final amendments to the General Provisions as described above in section V.A.

C. Amendments to Individual NESHAP

At proposal, the EPA identified one general category of regulatory provisions in several NESHAP subparts that reflect the 1995 OIAI policy that requires revision pursuant to this action. This category of provisions addresses the date by which a major source can become an area source. We proposed to revise the following provisions: 40 CFR part 63, subpart QQQ at 63.1441; 40 CFR part 63, subpart QQQQQ at 63.9485; 40 CFR part 63, subpart RRRRR at 63.9581; and Table 2 of 40 CFR part 63, subpart WWWW. We solicited comment on whether there are any other regulatory provisions in any of the individual subparts that include OIAI provisions that should be revised pursuant to this action. The EPA received comments regarding multiple provisions in 40 CFR part 63, subpart F at 63.100(b)(4); subpart I at 63.190(b)(7); subpart HH at 63.760(a)(1); and subpart HHH at 63.1270. The EPA reviewed the provisions raised by commenters in these subparts and is including in this final rule revisions to the provisions in subpart HH at 63.760(a)(1) and subpart HHH at 63.1270(a). The EPA is not making changes with respect to the identified provisions in subparts F and I at 63.100(b)(4) and 63.190(b)(7). The EPA sees these provisions as expired exclusion provisions, not OIAI provisions, that do not prevent a source from reclassifying to area source status.

At proposal, we also identified several area source NESHAP containing notification provisions (*i.e.,* initial notification) applicable to existing sources for which the dates have passed. We proposed to amend the following area source NESHAP that contain notification requirements for existing sources with specific deadlines that are in the past: 40 CFR part 63, subpart HHHHHH at 63.11175; 40 CFR part 63, subpart XXXXXX at 63.11519; 40 CFR part 63, subpart YYYYYY at 63.11529; 40 CFR part 63, subpart AAAAAAA at 63.11564; 40 CFR part 63, subpart BBBBBBB at 63.11585; 40 CFR part 63, subpart CCCCCCC at 63.11603. Consistent with other area source NESHAP notification requirements, we proposed that, for an existing source that reclassifies from major to area source status, the notification shall be submitted no later than 120 calendar days after the source becomes subject to the relevant area source NESHAP requirements. Regarding whether there are any other individual subparts that would warrant modification because initial notification requirements are in the past, commenters pointed at the initial notification requirements in many of the major source NESHAP subparts. They stated that if an area source were to revert back to major source status, these initial notification requirements would have been in the past. The EPA reviewed the initial notification provisions of all NESHAP subparts and is including in this final rule amendments to the initial notification requirements within most NESHAP subparts to include additional language so that the notification shall be submitted no later than 120 calendar days after the source becomes subject to the relevant NESHAP requirements. The EPA is amending the initial notification requirements in the following subparts: 40 CFR part 63, subpart G at 63.151(b)(2) (i), (ii) and (ii); subpart H at 63.182(b)(2)(i), (ii), and (iii); subpart L at 63.311(a); subpart M at 63.324(g); subpart N at 63.347(c)(1); subpart Q at

63.405(a)(1) and (2); subpart S at 63.455(a); subpart T at 63.468(a), (b), (c), and (d); subpart Y at 63.567(b)(2) and (3); subpart DD at 63.697(a)(1); subpart EE Table 1; subpart HH at 63.77(c)(1); subpart JJ Table 1; subpart KK at 63.830(b)(1)(i), subpart CCC at 63.1163(a)(3); subpart PPP at 63.1434(d) and (e), and at 63.1439(e)(3)(ii)(B) and (C); subpart QQQ at 63.1454(b); subpart UUU at 63.1574(b); subpart VVV at 63.1591(a)(1) and (2); subpart DDDD at 63.2280(b); subpart EEEE at 63.2382(b)(1) and (2); subpart FFFF at 63.2515(b); subpart GGGG at 63.2860(a); subpart IIII at 63.3110(b); subpart JJJJ at 63.3400(b)(1); subpart KKKK at 63.3510(b); subpart MMMM at 63.3910(b); subpart NNNN at 63.4110(a)(1); subpart OOOO at 63.4310(b); subpart PPPP at 63.4510(b); subpart QQQQ at 63.4710(b); subpart RRRR at 63.4910(b); subpart SSSS at 63.5180(b)(1); subpart TTTT at 63.5415(b); subpart UUUU, Table 7; subpart XXXX at 63.6009(b); subpart YYYY at 63.6145(b); subpart ZZZZ at 63.6645(b) and (d), subpart AAAAA at 63.7130(b) and (c); subpart BBBBB at 63.7189(b); subpart CCCCC at 63.7340; subpart DDDDD at 63.7545(b) and (c), subpart EEEEE at 63.7750(b); subpart FFFFF at 63.7840(b); subpart GGGGG at 63.7950(b) and (c); subpart HHHHH at 63.8070(b)(1); subpart IIIII at 63.8252(b); subpart JJJJJ, Table 8; subpart KKKKK, Table 9; subpart LLLLL at 63.8692(b), subpart MMMMM at 63.8816(b); subpart NNNNN at 63.9045(b), subpart PPPPP at 63.9345(b)(1); subpart QQQQQ at 63.9535(c); subpart RRRRR at 63.9640(b); subpart SSSSS at 63.9812(b); subpart TTTTT at 63.9930(b); subpart BBBBBB at 63.11086(e) and Table 3; subpart CCCCCC at 63.11124(a)(1), (b)(1), and Table 3; subpart HHHHHH at 63.11175(a); subpart PPPPPP at 63.11425(b) and (c); subpart QQQQQQ at 63.11432(b) and (c); subpart RRRRRR at 63.11441(a); subpart TTTTTT at 63.11469(a); subpart WWWWWW at 63.11509(a)(3); subpart XXXXXX at 63.11519(a)(1); subpart YYYYYY at 63.11529 (a); subpart AAAAAAA at 63.11564(a)(2); subpart BBBBBBB at 63.11585(b)(1); and subpart CCCCCCC at 63.11603(a)(1).

VI. Other Considerations

A. PTE Determination

In the MM2A proposal, the EPA included a background discussion associated with the HAP PTE determination. The discussion was intended to provide context for evaluating whether the EPA should include in the General Provisions to 40 CFR part 63 certain elements of the Federal Minor New Source Review Program in Indian Country, which included application content requirements in those rules as well as the proposed hierarchy of acceptable data and methods a source seeking reclassification would use to calculate and determine the source PTE. We received many comments regarding PTE determinations, including suggestions for clarification on how to do these calculations, which are already addressed in guidance. See section VII of this preamble for additional information regarding implementation of PTE limits and the EPA guidance addressing related topics. Importantly, at this time, the EPA is not taking final action on whether to include in the General Provisions a hierarchy of data and methods for calculating PTE. The EPA will continue to evaluate whether there is a need to issue guidance or rulemaking for such hierarchy and methods in the future.

In the MM2A proposal, the EPA requested comments on whether it would be appropriate to include in the General Provisions of 40 CFR part 63 the minimum requirements for the information that a major source of HAP must submit to its regulatory authority when seeking to obtain PTE limitations to reclassify as area sources under section 112 of the CAA, similar to the information included in a synthetic minor source permit application under Tribal Minor New Source Review. Most of the industry and state commenters asserted that regulatory authorities should retain authority to determine what a major source must submit to reclassify. They argued that these requirements already exist in federal, state, and local rules, and asking state and local governments to add new regulatory requirements onto programs that already provide for the creation and enforcement of synthetic minor limits would be an unnecessarily burdensome administrative resource drain. The EPA agrees with commenters that the addition of minimum requirements for the information that a major source of HAP must submit to its regulatory authority when seeking to obtain PTE limitations to reclassify as area sources under section 112 of the CAA ignores that permitting authorities already have permit application requirements under their programs. Also, the EPA has reconsidered that permit application requirements for PTE programs would be more appropriate under 40 CFR part 63, subpart E and is not including such requirements in the final rule. See section VII of this preamble. This position does not, however, alter how the EPA will apply the policy that the Agency has been following since 1995, which allows for any physical or operational limitation on the capacity of the stationary source to emit a pollutant (such as air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed), to be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally enforceable by a state or local permitting authority and practicably enforceable.

B. Reclassification Process and Permitting

The proposal addressed questions from sources and permitting authorities regarding permit process, mechanisms, and the requirements for reclassifying to area source status for 40 CFR part 70 sources. These questions were brought to our attention per our request in the MM2A Memorandum about specific situations that may need to be considered at proposal. The purpose of the discussion was to inform stakeholders about our expectations on how the reclassification process will work in those specific circumstances. The EPA did not propose changes to any of the rules for the permitting programs or to their interpretation. Below, we clarify the related proposal preamble discussion, since it may have introduced ambiguity about our interpretation of the regulations.

Stakeholders asked the EPA to clarify whether a reclassified source continues to have an obligation to comply with the major source requirements in their title V permit that were included solely to comply with the OIAI policy. These scenarios consisted of sources that no longer have the maximum capacity to emit HAP in amounts that exceed major source thresholds because of physical or operational limitations but whose title V permit still includes major source NESHAP requirements. (Often, the operational limitations are enforceable limitations the source has taken to avoid major source requirements in the future, in agreement with the OIAI policy.) The proposal's preamble acknowledged that in that case the source is an area source under the CAA section 112 definition, but it still must comply with its title V permit terms and conditions until the permit is revised or revoked in agreement with the title V permitting authority that issued the permit. The proposal's preamble advised that sources must follow the permitting authority's procedures for permit modification or closure. We continue to stand by our view that the permitting

authority will be in the best position to help a source decide on the appropriate procedures under the specific program rules to reconcile permitting obligations.

The preamble illustrated, with examples, how situations may differ and that we expect those differences to require different procedures. The proposal concluded that in a hypothetical situation when the major source NESHAP permit terms are relied upon to demonstrate compliance with some other applicable requirement (*e.g.,* in the case of streamlining the permit conditions), concurrently with their removal, the permitting authority may need to reevaluate the MRR for applicable requirements remaining in the permit and that the regulations in 40 CFR part 71 would require a significant modification to add these requirements to a title V permit. With regard to this advice, commenters argued that the EPA misspoke in the proposal as to the appropriate process for 40 CFR part 71 sources. The commenters argued that revising the 40 CFR part 71 permit to reflect a change in applicable requirements may not always require a significant modification to a title V permit, and the EPA provided no explanation in the proposal for this cursory conclusion relative to 40 CFR part 71. The EPA first clarifies that the explanation in the proposal about the procedures that apply to the changes in the scenarios presented reflect the EPA's current view regarding the 40 CFR part 71 permitting authority for a general case and does not imply that a particular situation may not merit a different treatment based on the facts and the 40 CFR part 71 regulations. The basis for the EPA conclusion in the preamble is that removing non-applicable NESHAP requirements would almost always involve significant changes to monitoring, recordkeeping, and/or reporting, and, thus, the modification would not qualify as a minor modification under 40 CFR 71.7(e)(1)(i)(2). This is especially true if revised monitoring requirements must be added to substitute for removed NESHAP monitoring requirements. However, we recognize that the procedures will generally depend on the program regulations and the facts of the situation. While the commenter does not provide a compelling argument to change our view on the permit modification procedures that would most likely apply for removing no-longer-applicable requirements from a 40 CFR part 71 permit, a source is free to show that in its situation the changes to existing monitoring, reporting, or recordkeeping, etc., due to the removal of the no-longer-applicable requirements are not significant. Importantly, the EPA did not propose changes to, and this final rule does not make any changes to, the 40 CFR part 70 or 71 rules and is not prejudging any future proposed process for modifying any 40 CFR part 71 permits.

The EPA received multiple comments regarding the public notice and comment procedures associated with reclassification. As discussed below in section VII, the EPA is not taking action on the proposed effectiveness criteria for PTE limits at this time and is continuing to consider the comments received on this aspect of the MM2A proposal. The EPA intends to take final action on this aspect of the MM2A proposal in a separate final action at a later date. Notwithstanding this, on the issue of public notice and comment procedures currently in use for reclassifications, the EPA reiterates that, consistent with our long-standing policy, regulatory agencies implement public notice and comment procedures for state, local, and tribal programs as required under their regulations and statutes. The authority under which the PTE limits are issued contain issuance procedures, including any procedures for public notice and comment. Importantly, regulatory authorities use different issuing mechanisms depending on the complexity of the PTE limits required for the situation and the pollutants addressed. Typically, states issue enforceable PTE limits for individual sources in a SIP construction permit or a synthetic minor type of operating permit (*e.g.,* operating permits other than title V permit). States can also utilize less burdensome mechanisms for limiting PTE, such as general permits for source categories, permits by rule, or registration programs, as appropriate. Regardless of the mechanism used to issue an enforceable PTE limit, the regulatory agency must follow the applicable procedures for that mechanism, including providing for public notice and comment when required.

Some commenters on the proposal asserted that the EPA had failed to analyze federalism implications of the proposal. According to the commenters, states also rely on title V permitting fees to support permitting, monitoring, and enforcement of title V sources, and the EPA had not considered how states will do so with the loss of title V funds since area sources are frequently exempted from title V. The commenters stated that the EPA had a duty to consult with state and local governments for proposed rules with federalism implications and substantial compliance costs. The EPA disagrees that this action imposes substantial compliance costs to state and local governments. As the EPA explained in section IV of this preamble, the OIAI policy imposed a time constraint on the ability of a source to change its status for purposes of applicability with CAA section 112 standards that is not found in the statute. This action simply implements the plain language reading of the statutory definitions of major source and area source which contain no language fixing a source's status at any particular point in time and contain no language suggesting a cutoff date after which the source's status cannot change. This rule explains what sources must do if and when they elect to reclassify and does not change the standards established under CAA section 112 nor it changes the permitting authority programs that are used for processing reclassifications.

VII. Interim Ministerial Revision of 40 CFR Part 63 PTE Definition

The definition of PTE in 40 CFR 63.2 interprets the statutory term "potential to emit" found in the definition of a major source in section 112 of the CAA and provides a legal mechanism for sources that wish to restrain their emissions to avoid triggering major source requirements. Under the PTE definition in 40 CFR 63.2 promulgated in 1994, any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.[21] In *National Mining Association (NMA)* v. *EPA,* 59 F.3d 1351 (D.C. Cir. 1995), the D.C. Cir. remanded the definition of "potential to emit" found in 40 CFR 63.2 to the EPA to justify the requirement that physical or operational limits be "federally enforceable." The *NMA* decision confirmed that the EPA has an obligation to ensure that limits considered in determining a source's PTE are effective, but it stated that the Agency had not adequately explained how "federal enforceability" furthered effectiveness. 59 F.3d at 1363–1365.

In the MM2A proposal, the EPA proposed specific criteria that PTE limits must meet for these limits to be effective. The EPA also proposed to amend the definition of "potential to

[21] See 40 CFR 63.2 definition of "federally enforceable" available at *https://ecfr.io/Title-40/se40.11.63_12.*

emit" in 40 CFR 63.2 accordingly by removing the requirement for federally enforceable PTE limits and requiring instead that HAP PTE limits meet the effectiveness criteria of being both legally enforceable and practicably enforceable. The EPA also proposed to amend 40 CFR 63.2 to include the definitions of "legally enforceable" and "practicably enforceable" described in the MM2A proposal. The EPA then took comment on the effectiveness criteria and the proposed amendments to 40 CFR 63.2.

The EPA received significant comments from many stakeholders on the proposed effectiveness criteria and proposed amendments to 40 CFR 63.2. One of the main concerns raised by stakeholders in their comments is the interactions and effects of the proposed amendments with other CAA programs, including prevention of significant deterioration (PSD), NSR, SIP, and title V, and the impacts of the proposed amendments to existing state, local, and tribal agency rules. The EPA is not taking action on the proposed amendments to 40 CFR 63.2 at this time and is continuing to consider the comments received on this aspect of the MM2A proposal. The EPA intends to take final action on this aspect of the MM2A proposal in a separate final action at a later date.

In the meantime, the EPA is making an interim ministerial revision to the definition of "potential to emit" in 40 CFR 63.2. Specifically, the Agency is removing the word "federally" from the phrase "federally enforceable" in the definition of "potential to emit." A few points need to be made to explain what this interim ministerial revision is and what it is not. First, this revision is not the EPA's final decision and should not be read to suggest that the EPA is leaning towards or away from any particular final action on this aspect of the proposal. This revision is simply an interim revision to cover the period of time while the EPA continues to consider the comments on this aspect of the proposal and until the Agency takes final action with respect to the proposed amendments concerning the proposed effectiveness criteria and proposed amendments to 40 CFR 63.2. Second, this revision is ministerial because it merely reflects the *NMA* decision, which held that the EPA had not explained why a PTE limit had to be "federally enforceable" to be considered as the basis for reclassifying a major source to area source status. See *NMA* v. *EPA,* 59 F.3d at 1363–1365.[22] Again, this revision does not represent a final decision by the EPA or signal any direction that the EPA is intending to take in a future final action. It simply makes a ministerial change to the regulatory text that appears in the CFR to reflect the *NMA* decision.

Further, this interim ministerial revision does not alter any rights or legal consequences and simply preserves the status quo that has been in effect since the late 1990s. This revision will not change how the EPA will apply the transitional policy that the Agency has been following since 1995. By removing the word "federally," the EPA hopes to avoid any ongoing confusion about how the transitional policy is applied. This transitional policy allows for any physical or operational limitation on the capacity of the stationary source to emit a pollutant (such as air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed) to be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally enforceable by a state or local permitting authority and practicably enforceable.

For implementing reclassifications in the interim, state programs may use PTE guidance they have developed for their programs and/or may also continue to rely on the EPA PTE guidance. As noted in the proposal preamble, there is a substantial body of EPA guidance and administrative decisions relating to PTE and PTE limits.[23]

VIII. Summary of Cost, Environmental, and Economic Impacts

In this section, the EPA summarizes the findings of several analyses that we conducted to assess the cost, environmental, and economic impacts of the final rule. It is important to restate that the final rule does not *require* any source to reclassify to area source status. Each source must assess its own circumstances to determine whether it is feasible and advantageous to undergo the reclassification process. The unique nature of each source's decision process makes it difficult for the EPA to determine the number and type of sources that may choose to reclassify under this rule. Because of this, the EPA can only present illustrative analyses concerning the impacts of this final rule.

For the final rule analyses, based on comments received on the data used for the overall analyses for the MM2A proposal, the EPA updated the MM2A database, removed double counting of facilities, and expanded the number of source categories evaluated for cost, environmental, and economic impacts. The updated MM2A database contains data from the 2017 National Emissions Inventory (NEI), data collected to conduct residual risk and technology reviews (RTR) under sections 112(d)(6) and 112(f) of the CAA (henceforth referred to as RTR modeling file data), and data from the EPA's Enforcement and Compliance History On-line (ECHO) database. The EPA used the RTR modeling file data and NEI data to estimate the number of facilities in each of 74 source categories and the number of sources within those facilities that could be eligible to reclassify from major to area source status. We used the ECHO data to estimate the number of facilities in 27 additional source categories for which we did not have RTR modeling file data, and we then used an extrapolation methodology to approximate the number of facilities within these 27 source categories that could be eligible to reclassify from major to area source status.[24]

[22] The EPA notes that in two subsequent decisions, the D.C. Cir. relied on the *NMA* decision and presented no additional legal analysis. In *Chemical Manufacturers Assoc,* v. *EPA,* 70 F.3d 637 (D.C. Cir. 1995), the D.C. Cir. reviewed a "federally enforceable" limitation in the PTE definition in the PSD and NSR regulations and both vacated and remanded the federal enforceability requirement in those provisions with a three sentence decision that provided no additional analysis and simply referenced the *NMA* decision: "Petitioners challenge regulations of the Environmental Protection Agency that define the term "potential to emit" to exclude controls and limitations on a source's maximum emissions capacity unless those controls are federally enforceable. We recently decided a similar challenge in *National Mining Association* v. *EPA,* 313 U.S. App. D.C. 363, 59 F.3d 1351 (D.C. Cir. 1995). Accordingly, it is *ordered* and *adjudged* that the regulations are vacated and the case is remanded to the Environmental Protection Agency for reconsideration in light of *National Mining Association*." In *Clean Air Implementation Project* v. *EPA,* No 96–1224 1996 WL 393118 (D.C. Cir., Jun. 28, 1996) (*CAIP*), the D.C. Cir. also vacated and remanded the federal enforceability requirement in the title V (40 CFR part 70) regulations.

[23] There is a substantial body of EPA guidance and administrative decisions relating to PTE and PTE limits. *E.g.,* see generally, Terrell E. Hunt and John S. Seitz, "*Limiting Potential to Emit in New Source Permitting*" (June 13, 1989); John S. Seitz, "*Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act*" (January 25, 1995); Kathie Stein, "*Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits*" (January 25, 1995); John Seitz and Robert Van Heuvelen, "*Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit*" (January 22, 1996); "*In the Matter of Orange Recycling and Ethanol Production Facility, Pencor-Masada Oxynol, LLC,*" Order on Petition No. II–2001–05 (April 8, 2002) at 4–7.

[24] There are about 114 major source categories subject to NESHAP. The EPA determined that 13 source categories are not impacted by this rule and did not include these categories in the costs or impacts analyses. For the remaining categories, 74 were analyzed using RTR modeling file data while 27 were analyzed using an extrapolation approach.

As a result of updates to the MM2A database, the number of facilities estimated to be subject to major source NESHAP has been reduced from 7,920 at proposal to 7,187. The detailed methods applied to update the MM2A database and estimate the number of facilities subject to major source NESHAP for purposes of the final rule analyses are described in the TSM titled "*Documentation of the Data for Analytical Evaluations and Summary of Industries Potentially Impacted by the Final Rule titled Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act,*" which is included in the docket for this action.

A. Analytical Scenarios

The potential costs and cost savings presented in the final cost memorandum and RIA are the result of an illustrative assessment. It is unknown how many major sources would choose to take enforceable PTE limits to levels below the MST and reclassify to area source status. If a source voluntarily chooses to reclassify to area source status, it will no longer be subject to previously applicable major source NESHAP, which may result in compliance cost savings for the source. However, the source will be required to comply with any applicable area source NESHAP in response to reclassification, which could result in some compliance costs. Facilities will also have costs associated with applying to modify the facility's operating permit when they reclassify from major to area source status. Regulatory agencies will also have costs to process those applications. Overall, the sum of costs and cost savings of all actions taken to reclassify under this rule is expected to be a net annual cost savings.

To illustrate the potential emissions changes, costs, and economic impacts of the final rule, we analyzed the same three illustrative analytical scenarios as at proposal. The primary analytical scenario analyzes the sources with actual emissions below 75 percent of the MST (7.5 tpy of a single HAP or 18.75 tpy of all combined HAP). Alternative scenario 1 analyzes facilities with actual emissions below 50 percent of the MST (5 tpy for a single HAP and 12.5 tpy for all HAP). Alternative scenario 2 analyzes sources with actual emissions between 75 percent and 125 percent of the MST (12.5 tpy for a single HAP and 31.25 tpy for all HAP).

The primary analytical scenario considers that sources will normally build a compliance margin into their operations to ensure that their emissions remain below the MST and they do not revert to major source status. Some commenters suggested that the EPA should conduct its analyses based on the assumption that all sources will emit up to the MST, or the Agency should analyze a scenario with a smaller compliance margin (*i.e.,* at 90 percent of the MST). The appropriate compliance margin to apply is specific to each facility and its operating experience. Some reclassified sources may choose to operate 10 percent below the MST while others may choose to maintain a larger compliance margin to ensure they do not jeopardize their area source status. In addition, some facilities operating slightly above the MST may opt for reclassification to area source status by taking PTE limitations and reducing emissions to a level below the MST. Therefore, we provide illustrative analyses of potential changes in costs and emissions at various compliance margins. The level of actual emissions relative to the MST at which facilities may consider participating in the MM2A reclassification process is actually a continuous line from some level below the MST to a reasonable level above the MST, and our illustrative analyses include three points on this continuous line to estimate the potential impacts of different compliance margins on participation under this final rule. In this section, we present the primary illustrative scenario and two alternative scenarios, one above and one below the primary scenario.

While different compliance margins could be evaluated, the EPA has greater confidence in the primary illustrative scenario where sources at or below 75 percent of the MST can maintain emissions below the MST and thus may be more likely to opt for reclassification. Sources in the MM2A database operating between 50 and 75 percent of the MST, and those operating between 75 and 125 percent of the MST, are also addressed in our analyses, in the first and second alternative scenarios, respectively. These alternative scenarios address the impacts of sources at alternative compliance margins as suggested by commenters. In addition to these analytical scenarios, the updates to the MM2A database detailed in the TSM titled "*Documentation of the Data for Analytical Evaluations and Summary of Industries Potentially Impacted by the Final Rule titled Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act*" presents the incremental count of facilities at 90 and 100 percent of the MST to illustrate a comparison of the difference between the number of facilities in the database operating in the primary scenario and these alternative views suggested by commenters.[25]

B. Cost Analysis

For the illustrative cost analysis conducted for the final rule, the EPA analyzed: (1) Facilities with actual emissions below each analytical threshold, (2) the costs that we estimated to be incurred by the facilities associated with permitting actions necessary to obtain area source status, (3) the costs that we estimated to be incurred by permitting authorities associated with permitting actions necessary to process permit applications for facilities requesting reclassification, and (4) cost-savings estimates based solely on estimated reductions in labor burden related to MRR requirements that would either no longer apply or would change based on the specific requirements in the major source NESHAP rules and any area source NESHAP rules that apply to a particular source category. As part of the overall analysis of the 125-percent alternative scenario, we examined the potential control costs for major sources in eight source categories that may opt to further reduce HAP emissions in order to reclassify to area source status. Details of this potential control cost analysis are presented in the TSM titled "*Analysis of Illustrative 125% Scenario for MM2A Final—Potential Cost Impacts from HAP Major Sources Reducing Emissions as part of Reclassifying to HAP Area Sources*" which is available in the docket for this action. The details of the cost analysis are presented in the TSM titled "*Documentation of the Compliance Cost Savings Analysis for the Final Rulemaking Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act*" and also are summarized in the RIA. All of these documents are available in the docket for this action.

The illustrative cost analysis presents estimates of the final rule's net costs (or savings) over two time periods. The first estimate assumes that all potential reclassifications that might occur as a result of this rulemaking with take place within 1 year of promulgation (*i.e.,* by 2021). The second estimate assumes that not all the reclassifications will occur within 1 year after the MM2A rule is finalized, and instead are assumed to occur over a more extended period of time.

[25] See the Response to Comments document for a detailed rationale for the selection of analytical scenarios for the final rule and the EPA's reasoning for not evaluating impacts at 90 percent of the MST.

For the first illustrative cost analysis, Year 1 costs include the cost for each facility to apply for and obtain an area source or synthetic minor permit or a title V permit modification and for the regulatory agencies to review and approve those applications and issue the permits. These permitting costs to the facilities and state agencies are one-time costs and occur only in Year 1 when a facility reclassifies. Then, in Year 2 and beyond, facilities do not incur the cost to process a reclassification and the net costs (or savings) are the sum of the projected annual cost savings from not having to comply with the major source NESHAP MRR requirements and the estimated cost of compliance with applicable area source NESHAP requirements. These projected savings are expected to continue for each reclassified facility each year beyond the second year, for there is no time specified for review of reclassifications under the CAA. The permitting costs to the facilities and the permitting costs to the regulatory agencies are not included in the second year because it is assumed the permitting changes are all completed in the year the source submits an application for reclassification and no action is needed in subsequent years in relation to this action.

However, based on the number of potential reclassifications discussed in this analysis, we can confidently conclude that not all of the reclassifications will occur in the first year after the rule is issued. The timing of a reclassification is influenced by several considerations, including time for facilities to determine whether it is in their best interest to reclassify, time to prepare applications for reclassification, and time for permitting authorities to review applications and process reclassification requests. There is also time allotted for the EPA to review determinations by permitting authorities and for public participation in the process. Therefore, it is reasonable to assume that not all the reclassifications will occur within 1 year after the MM2A rule is finalized, and instead the reclassifications assessed in the cost analysis are assumed to occur over a more extended period of time. To illustrate the spread of costs over time, the EPA also presents a 5-year outlook of costs and cost savings.

A summary of the results of the potential costs and cost savings across different types of source categories from the illustrative cost analysis for Year 1 and Year 2 and beyond is presented in Table 2. Results are presented for the 74 source categories evaluated using RTR modeling data and the 27 source categories that were evaluated using the extrapolation approach.

TABLE 2—ILLUSTRATIVE NET COSTS (OR COST SAVINGS) OF FINAL MM2A RULE FOR THE PRIMARY ANALYTICAL SCENARIO

Source category coverage	Total number of facilities subject to major source NESHAP	Facilities with actual emissions below 75 percent of the MST [1]	Potential net annual costs (or cost savings) in 2017$ for Year 1 [2 4] and Year 2 [3 4] and beyond
Source categories with RTR data (74 categories)	4,068	1,614	$10,147,526 (56,137,515)
Extrapolated source categories (24 categories) [5]	1,294	266	1,680,049 (9,030,684)
Industrial, commercial, and institutional boilers and process heaters (3 categories) [5]	1,821	687	4,319,300 (25,456,533)
Total (101 source categories)	7,183	2,567	16,146,875 (90,624,732)

[1] Results are for sources with actual emissions below 75 percent of the MST (*i.e.,* 7.5 tpy for one HAP and 18.75 tpy for combined HAP).
[2] Costs incurred by sources and permitting authority assumed in year 1.
[3] Year 2 impacts are also representative of annual impacts to all reclassified major sources in all subsequent years in the future. Numbers in parenthesis are negative and reflect cost savings.
[4] The analytic timeline begins in 2021 and continues thereafter for an indefinite period. Year 1 impacts are those for 1 year after reclassification of a major source with reclassifications beginning in 2021, and year 2 impacts are those for the second year after reclassification of a major source and annually afterwards.
[5] Extrapolated using the EPA's ECHO data.

Table 3 presents the illustrative potential cost (or cost savings) impact of the final rule over time for the primary analytical scenario. We present the impacts over a 5-year outlook that assumes all sources in our analysis will reclassify over that timeframe and that the reclassifications will be evenly distributed over that period.

TABLE 3—ILLUSTRATIVE NET COSTS (OR COST SAVINGS) OF THE FINAL MM2A RULE OVER TIME FOR THE PRIMARY ANALYTICAL SCENARIO *

Source category coverage	Distribution of costs (or cost savings) over a 5-year period ($2017)				
	2021	2022	2023	2024	2025+
Source categories with RTR data (74 categories)	$2,536,882	$(11,497,497)	$(25,531,875)	$(39,566,254)	$(56,137,515)
Extrapolated Source Categories (24 categories)	420,012	(1,837,658)	(4,095,329)	(6,353,000)	(9,030,684)

TABLE 3—ILLUSTRATIVE NET COSTS (OR COST SAVINGS) OF THE FINAL MM2A RULE OVER TIME FOR THE PRIMARY ANALYTICAL SCENARIO*—Continued

Source category coverage	Distribution of costs (or cost savings) over a 5-year period ($2017)				
	2021	2022	2023	2024	2025+
Industrial, Commercial, and Institutional Boilers and Process Heaters (3 categories)	1,079,825	(5,284,308)	(11,648,441)	(18,012,574)	(25,456,533)
Total (101 Source categories)	4,036,719	(18,619,464)	(41,275,647)	(63,931,830)	(90,624,732)

*These results reflect the aggregate of costs and cost savings for all facilities by year of impact. Estimates for 2025 are also representative of all subsequent years.

The EPA also calculated the PV of the illustrative cost savings for the main illustrative scenario. The PV is the value of a stream of impacts over time, discounted to the current (or nearly current) year. The PV of the cost savings for the primary illustrative scenario is $0.86 billion (in 2017 dollars) at a discount rate of 7 percent, which is discounted to 2020. At a discount rate of 3 percent, the PV is $1.50 billion (in 2017 dollars), again discounted to 2020. Another measure of the annual cost savings to complement the estimates in Table 2 is the EAV. This annual impact estimate is calculated consistent with the PV. The EAV is $67 million (2017 dollars) at a 7-percent discount rate for the primary scenario. At a 3-percent discount rate, the EAV is $75 million (2017 dollars). The PVs and EAVs for each alternative scenario and discount rate in 2017 and 2016 dollars can be found in the RIA for the final rule.

C. Environmental Analysis

At proposal, to assess the potential environmental emissions impacts associated with the reclassification of sources, the EPA reviewed permits and other information for 34 sources that had reclassified to area source status consistent with the EPA's plain language reading of the CAA section 112 definitions of "major" and "area" source since January 2018. The review of these reclassifications provided a representation of the potential real-world impacts on emissions by looking at the facts and circumstances of actual reclassification actions. In addition to the evaluation of the reclassification actions, at proposal the EPA also performed an illustrative assessment for six source categories: Wood Furniture Manufacturing Operations, Surface Coating of Metal Cans, Surface Coating of Miscellaneous Metal Parts and Products, Wet-Formed Fiberglass Mat Production, Hydrochloric Acid Production, and Non-Gasoline Organic Liquids Distribution. The analysis of these six source categories was informative in some respects but was only illustrative and speculative in nature and only presented a range of possible outcomes dependent on the assumptions that we made in the assessment. The EPA received numerous comments on the emissions analyses presented at proposal. Many commenters argued that the EPA had failed to adequately assess the effects of the rule on HAP emissions and did not perform any health impact analysis. These commenters argued the EPA did not include enough source categories in the emissions analysis at proposal to draw reasonable conclusions. Commenters also opined that the analysis of the actual reclassifications relied on a small sample, and a few speculated that we had "cherry picked" permits to review.

For the final rule, the EPA expanded the emissions impact analysis in several ways to address these comments. We enhanced the MM2A database to include more source categories with detailed data and improved the methodology for analysis based on public comments. We also expanded the review of reclassification actions to include the review of 35 additional reclassifications received from March 2019 through February 2020.[26] This allowed us to more than double the number of reclassifications reviewed for the final rule. The details and results of the analysis of 69 reclassification actions are summarized below and presented in detail in the Review of Reclassification Actions TSM for the final rule, which is available in the docket for this action.[27] The EPA received several comments on the permit reviews completed for the proposal; we have considered the input from commenters in the review of the reclassifications included in the final analysis. Finally, we also expanded the illustrative analysis of impacts on the program from the six source categories reviewed at proposal to 72 source categories. The 72 source categories included in the illustrative analysis represent a broad array of the sources subject to major source NESHAP requirements and the types of sources that could seek reclassification to area source status under this final rule. We discuss the reclassification actions reviewed and the illustrative analyses of source categories in detail below. Our analysis indicates that 68 of the 69 sources that have reclassified will not increase emissions. In addition to this review of actual reclassification actions, the EPA also prepared an illustrative analysis for 72 source categories in the major source NESHAP program (114 total) to evaluate the potential emissions impacts. After consideration of the information and data available for the illustrative emissions analysis, we found that 65 source categories will not change emissions as a result of the rule. For the other seven source categories, there was a potential for (but not a certainty of) emissions increases based on conservative assumptions that are likely to overstate the change in emissions at some facilities. As is discussed throughout this preamble and in the TSMs and RIA, any analysis of impacts includes uncertainties, and each subsequent level of analysis compounds the uncertainties to a much greater level. Given the compounding of uncertainty and illustrative nature of the analysis, further quantification of effects of these emissions increases would not be reliable or informative. Instead, we present a qualitative discussion of benefits and disbenefits in the *benefits/disbenefits* subsection of impacts below. Further information of the analyses and findings are presented below.

To assess the potential for emissions impacts for the 69 reclassified sources, the EPA focused its review on the

[26] The EPA obtained information about these reclassifications through the normal course of business with the permitting authorities that notify us of permitting actions within their jurisdictions.

[27] See TSM titled "*Review of Reclassification Actions for the Final Rulemaking "Reclassification of Major Sources as Area Sources under Section 112 of the Clean Air Act*" available in the docket of this rulemaking.

enforceable conditions associated with the PTE limitations applicable to the emission units previously subject to major source NESHAP requirements. The EPA review focused on whether these emission units at these facilities continue to have enforceable conditions that are either the same as or consistent with the previous applicable major source NESHAP compliance obligations. Summaries of the permit reviews and emissions evaluations are presented in the Review of Reclassification Actions TSM, which is available in the docket for this action.

The EPA's findings from its review of permits for the reclassifications indicate that of the 69 sources that reclassified to area source status, 68 achieved and maintain area source status by operating the emission controls or continuing to implement the practices they used to comply with the major source NESHAP requirements; we expect no emissions increases due to reclassification for these sources. While permitting authorities could allow for changes in the enforceable conditions or practices that the sources used to comply with major source NESHAP requirements that could lead to emissions increases, this happened for only one source out of the 69 actual reclassifications. Below is an overview of the EPA's findings from the permit reviews for these 69 reclassifications.[28]

Of the 69 sources that have reclassified, 45 sources are in a coating type source category; 11 are chemical sources; six are fuel combustion/boiler sources; five are oil and gas sources and two are heavy industry sources. (See Tables 3 and 4 of Review of Reclassification Actions TSM available in the docket for this action). Of the 69 reclassifications reviewed, 14 sources are classified as true area sources because these sources are no longer physically or operationally able to emit HAP above the MST. Of the 55 sources with enforceable PTE limitations, 15 sources had obtained those enforceable PTE limitations before January 2018 (pre-existing PTE limitations) while 40 obtained the PTE limitations after January 2018 in order to reclassify to area source status (new PTE limitations).

Of the 45 coating sources reviewed, 39 used compliant materials (low-HAP/no-HAP) to meet applicable major source requirements before reclassification, and their continued use of compliant materials is an enforceable condition after reclassification. Five sources relied on the use of regenerative thermal oxidizers (RTOs) to meet applicable major source requirements and maintain enforceable conditions requiring the operation of the RTOs after reclassification. As described in detail in the TSM, the EPA does not expect emissions increases from these sources due to reclassification to area source status. Finally, one source used compliant materials to meet applicable major source requirements, but after reclassification requested a change to use a HAP-containing formulation with accompanying process limitations to maintain area source status. Had the change in formulation happened while the source was a major source, the source would have had to use an add-on control device to comply with the applicable NESHAP. For this source, the change in formulation after reclassification could lead to emissions increases of 4.3 tpy of xylene or 18.75 tpy of combined HAP.

Of the 11 chemical sources reviewed, four sources are miscellaneous organic chemical manufacturing facilities; these relied on a variety of control technologies (including RTOs, scrubbers, and flares) and work practices to maintain compliance before reclassifying and continue to have enforceable conditions requiring the control technologies after reclassification. Three sources are gasoline distribution sources that relied on vapor collection and vapor flare/vapor combustion to meet applicable major source requirements before reclassification, and these controls are enforceable conditions to maintain compliance after reclassification. Three sources are off-site waste recovery facilities that relied on control technologies such as vapor balance/recovery systems, condensers, and scrubbers to meet applicable major source requirements before reclassification. All these sources continue to rely on the same (or additional) requirements as enforceable conditions to maintain compliance after reclassification and the EPA does not expect emissions increases due to reclassification to area source status. Finally, one source is a former hazardous waste combustor and cement facility that until 2015 fueled its cement kiln using collected hazardous and non-hazardous waste, using various control technologies to maintain compliance. This facility permanently removed all equipment associated with Portland cement manufacturing and took on a new primary role as a hazardous waste storage/transfer facility, using throughput limits and a carbon adsorption system to maintain compliance.

Of the six combustion/boiler sources reviewed, four made permanent operational changes (ceased combustion of coal and/or ceased operation of boilers) allowing the sources to reclassify to area source status. Another source had material and operational limitations prior to reclassification, both of which continue to be enforceable conditions after reclassification, and one source took additional operational restrictions on the usage of natural gas as the mechanism to constrain their emissions and PTE and reclassify to area source status. Three of these sources had emissions above MST before reclassifying; the reclassification of these three sources resulted in a HAP reduction of 56.9 tpy single HAP and 78.8 tpy total HAP.

All five oil and gas production and transmission sources reviewed relied on the use of control technologies (oxidation catalyst [enclosed combustion device] and flares) to meet applicable major source requirements before reclassification, and their continued use is an enforceable condition to maintain compliance after reclassification. One of these sources took additional restrictions on the amount of gas vented to the atmosphere to reclassify to area source status. Also, the reclassification of this facility prevented additional emissions that would have occurred if the source had remained a major source. As described in detail in the TSM, the EPA does not expect emissions increases from these sources due to reclassification to area source status.

Of the two heavy industry sources reviewed, one is a lime manufacturing plant and the other is a flexible polyurethane foam fabrication facility. The lime manufacturing facility, after reclassification, remains subject to other regulatory requirements, including PM emission limitations, the use of a baghouse, and monitored opacity as an operating limit via operation of a continuous opacity monitoring system. The flexible polyurethane foam fabrication facility relied on compliant

[28] The analysis of the actual reclassifications includes representation of some of the source categories subject to major source NESHAP requirements. While the actual reclassifications demonstrate a cross-section of the types of industries that have reclassified, we are unable to determine if this cross-section of industries is representative of all types of sources that may seek reclassification in the future. The illustrative emissions analysis includes a broader selection of source categories across similar sectors of the economy as these actual reclassifications (*i.e.*, chemical, energy, combustion, coatings, and heavy industry/manufacturing). While the illustrative analysis is representative with respect to a broader selection of industries in the major source program, we are unable to definitively determine whether the sources within those categories will seek reclassification. Thus, we cannot make a determination of the representativeness of the actual reclassifications.

materials, control technology (carbon adsorption systems), work practices, and operational limitations to meet applicable major source standards before reclassification and continues to rely on these as enforceable conditions to maintain compliance after reclassification. See the Review of Reclassification Actions TSM available in the docket for the detailed permit reviews and emissions evaluations.

In response to comments, for the final rule's illustrative emissions impact analysis, we have also updated the assessment conducted at proposal for six source categories and expanded our assessment to numerous additional source categories. We identified several source categories that are unlikely to experience a change in emissions as a result of MM2A. We also conducted an in-depth analysis of potential changes in emissions upon reclassification for many source categories where we have information. We also reviewed the updated operating permits for a variety of industrial processes to interpret likely response to the final MM2A rule. The details and results of the emissions analysis are summarized below and presented in detail in the illustrative emissions impact analysis TSM titled, "*Documentation of the Emissions Analysis for the Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act,*" which is available in the docket for this action.[29]

The EPA considered many factors in assessing the potential emissions impacts from the various NESHAP source categories if facilities in these source categories were to reclassify to area source status. These factors include backstop measures from regulatory and technological limits, as well as limitations on growth for economic reasons. As for regulatory reasons, the EPA assessed, if sources were to reclassify, whether they would be subject to the same NESHAP requirements as before reclassification (which would be the case where the area source requirements are the same as the major source requirements), whether new area source NESHAP requirements will be applicable and how they impact emissions, whether there are NSPS requirements that apply to the source and control emissions at the same levels as the major source NESHAP requirements, and whether there are PSD/NSR/SIP requirements the effect of which will continue to control HAP emissions to the same extent. As for the technological and economic reasons, the EPA reviewed whether the measures used by the source to reduce emissions could be reversed or discontinued if sources were to reclassify to area source status. This includes, but is not limited to, changes in coating/adhesive formulations, fuel combustion technologies, and some level of backstop for emissions from add-on control technologies. Commenters stated that there are also other factors that will prevent emissions increases, including environmental management systems with which sources are engaged that require them to identify environmental impacts, set performance objectives, implement of standards for training and work practices, audit implementation of such standards, and take corrective action when deviations occur. Other commenters also mentioned that many sources are also required to meet Leadership in Energy and Environmental Design standards that incentivize efficient operations to minimize waste and energy usage, Occupational Safety and Health Administration requirements that protect workers from exposures to HAP and other pollutants, and toxics release inventory requirements. The commenters pointed out that these regulatory requirements continue to apply even if the source reclassifies, providing additional incentives for sources to not increase emissions. The EPA agrees with the commenters in that environmental management systems, even though they are voluntary and not regulatory in nature, will also provide additional incentive for some sources to maintain compliance with environmental legal obligations and not increase emissions.

Based on the EPA's illustrative analysis of potential emissions impacts from the 72 source categories, 65 source categories will either not be impacted by MM2A or are unlikely to experience any emissions changes for the reasons discussed in the above paragraph. After considering the information available for this illustrative analysis, we found that some facilities in seven source categories represented by detailed information from RTR modeling files in the MM2A database could increase emissions if they were to reclassify and were allowed to reduce operation of adjustable add-on controls. These facilities represent 7.9 percent of the facilities illustrated in the primary analytical scenario (*i.e.,* 128 facilities out of a total of 1,614 facilities in the primary analytical scenario), and 3.1 percent of all the facilities included in the analysis of the 72 source categories (*i.e.,* 128 facilities out of a total of 4,068 facilities operating in 72 source categories). Several of the source categories have only one or two facilities impacted, while three source categories have several facilities impacted. The facilities that we were able to assess are located in several states and are not clustered in close proximity to each other. The EPA was unable to evaluate the source categories included in the extrapolated approach used for the cost assessment due to insufficient information. Under alternative scenario 2, we determined that some facilities operating between 75 and 125 percent of the MST might opt to decrease emissions to reclassify to area source status as a result of the MM2A rule.

The EPA made several conservative assumptions when estimating the potential effect on emissions resulting from sources reclassifying from area to major source status. By "conservative," we mean that these assumptions are likely to result in an overestimate of emissions changes. We detail these assumptions in the TSM referenced above.[30] Based on these conservative assumptions, the potential change in emissions in the illustrative analyses for seven source categories could be an increase ranging from 919 tpy to 956 tpy of HAP across the NESHAP program under the primary scenario.[31] In

[29] See TSM, "*Documentation of the Illustrative Emissions Analysis for the Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act,*" available in the docket of this rulemaking.

[30] In general, the change in emissions is measured as the difference between PTE with compliance with the major source NESHAP and 75 percent of the MST (the maximum emissions assumed with a compliance margin for the primary scenario). Where the EPA does not have information on the PTE, we estimated the potential change in emissions as the difference between actual emissions and 75 percent of the MST. However, in some cases it is inappropriate to assume changes from minimal amounts of HAP (*i.e.* less than 1 tpy) up 75 percent of the MST as it represents a 100 times to 1,000 times increase in emissions (and production to the extent that production and emissions correlate). Given the production capacities at existing facilities along with economic constraints on growth, it is highly unlikely a facility would seek to increase emissions (and hence production) by 100-times to 1,000-times. Most mature industries will not experience tremendous economic growth, and some may experience a declining rate of production that impacts growth. Therefore, we assume a conservative measure of increase for facilities operating at very low levels of HAP of 10 times (*e.g.,* a facility operating at 0.5 tpy with not information on PTE would increase to 5 tpy). The measure for emission change in these instances could be higher or lower, but we selected 10 times to demonstrate a conservatively high level of potential emissions increase.

[31] The EPA also identified some facilities in the primary scenario that have an estimated PTE that is above the MST, yet their actual emissions are well below 75 percent of the MST. If these facilities opt to reclassify by taking a limit on their PTE down to a level below the MST, they will forego allowable

Continued

addition, we also include an alternative set of assumptions in the coatings sector to reflect the findings from the review of reclassification permits that shows one facility could increase emissions. For this alternative coating scenario, we extrapolate those findings to other facilities in the coatings sector using a percentage that represents the portion of the reclassified facilities that might increase emissions (*i.e.,* 2.3 percent of the reclassified coatings facilities are assumed to increase emissions). Using this alternative assumption, we estimate a potential emissions increase of 302 tpy of combined HAP. The total range of potential emissions increases is, therefore, 919 tpy to 1258 tpy. Again, it is important to note that this is likely an overestimate of actual emissions increases, as we explain in more detail in the technical support memorandum. Under the alternative scenario 2, we estimate a potential reduction in HAP emissions of 183 tpy.

In addition to approximating the response to the MM2A rule, we present information regarding the magnitude of potential changes in HAP emissions and discuss changes in health impacts for benefit categories of criteria pollutants. The combination of these evaluations represents our assessment of benefits as defined in Office of Management and Budget (OMB) Circular A–4. Based on the results of the EPA's analysis of the reclassifications of 69 sources and the illustrative emissions analysis of 72 source categories, this final rule may potentially result in both emission reductions and increases from a broad array of affected sources. For the 69 sources that have already reclassified, we conclude there are no potential emissions increases (except for one source as discussed in section VIII above) and, therefore, no health impacts associated with nearly all of the known reclassification actions. For the one facility with a potential for an emissions increase, the change in emissions would be modest and is not likely to result in significant health impacts. Because the sources that the EPA has identified as having a potential for some level of emissions change (given the uncertainties stated throughout this preamble) are located across the United States, we do not observe a concentration of emissions changes in any particular location. However, to understand the potential impact of this rulemaking on tribal and environmental justice communities, we conducted two analyses on the 69 sources that have reclassified to area source status as described above (from which we found only one facility that could increase emissions).

In the first analysis, we looked at sources that were within 50 miles of an area of Indian country. Of the 69 sources that we analyzed, 30 are within 50 miles of at least one area of Indian country. Eleven of these are within 10 miles of an area of Indian country and three are in Indian country. However, after reviewing the reclassification of these sources, only one of these sources could have an increase in emissions. The potential increase will be minimal because the source has limited its emissions of and PTE HAP below the MST. Therefore, the EPA expects there will be no additional impact from reclassification to most areas of Indian country.

Second, we conducted a demographic analysis of the populations within 5 miles of these same 69 sources. We then compared the average concentrations of low-income and minority populations within that 5-mile radius and compared them to the national average to determine if these populations will be disproportionality impacted. In this analysis, we found that the 5-mile radius around 13 of the 69 sources has a minority population above the national average, and the area surrounding 39 sources has a low-income population above the national average. Although these results would suggest that low-income populations may be more impacted by this rule, as stated above, only one of these sources could have an increase in emissions. Therefore, the EPA expects there will be no additional impact to most of these communities.

Based on the results of the EPA's analysis of the reclassifications of 69 sources and the illustrative emissions impact analysis of 72 source categories, this final rule could result in both emissions reductions and increases from a broad array of sources located in different geographic areas. Uncertainties in estimating the number of sources that will seek reclassification, and the resulting permit conditions that will impact emissions are discussed at length in this section of this preamble. Therefore, we illustrate impacts using certain assumptions to allow readers to better understand the potential impacts of the MM2A rule associated with HAP pollutants. However, changes in HAP emissions may also impact other pollutants as well.

Benefits/disbenefits. Although the illustrative emissions analysis suggests that there may be both emissions increases and decreases, we are uncertain of the magnitude and geographic distribution of the changes in emissions resulting from this rulemaking across the broad array of sources that could reclassify. As discussed in the docket of this final rule, the emissions from different sources will be impacted in different ways, and small changes in certain non-HAP pollutants, such as fine particulate matter, can lead to significant changes in monetized benefits/disbenefits. Due to the voluntary nature of this action, we are unable to quantify changes in non-HAP emissions across these sources. In place of quantitative estimates of the number and economic value of the non-HAP pollutant changes, we instead discuss potential impacts in qualitative terms. Similar uncertainties related to the potential distribution of changes in HAP emissions resulting from this rulemaking also exist. As such, we also present a qualitative assessment of the potential impacts to human health and the environment from changes in selected HAP emissions. For more information on the qualitative characterization of benefits/disbenefits, please refer to the benefits analysis included in the RIA for this final action.

D. Economic Analysis

The economic impact analysis (EIA), an analysis that is included in the RIA, focuses on impacts at an industry level, and impacts are only calculated for the scenario that includes facilities with actual emissions below 75 percent of the MST. As part of the EIA, the EPA considered the impact of this rulemaking on small entities (small businesses, governments, and nonprofit organizations). Impacts are calculated as compliance costs (savings, in this instance) as a percentage of sales for businesses, and of budgets for other organizations. For informational purposes, the RIA includes the Small Business Administration's definition of small entities by affected industry categories (defined as North American Industry Classification System) and potential burden reductions from title V and other permitting programs. Since this rule significantly lessens the regulatory burden that resulted from the OIAI policy, no compliance costs are directly imposed upon industry categories as a result of this rule. We do, however, consider the potential costs some sources may incur to show

emissions under the major source program (*i.e.,* the reduction in PTE that the facility must take to modify their PTE to down to 18.75 tpy). This reduction in emissions can be viewed as foregone emissions under PTE. For the facilities analyzed where PTE (or allowable emissions) were identified, the foregone allowable emissions totals a reduction of about –227 tpy. Therefore, the potential change in emissions for the seven source categories with potential increases is a net change in emissions of 692–729 tpy.

compliance with applicable area source NESHAP after they reclassify to area source status. These avoided costs accrue because some reclassified sources will not be required to obtain or maintain a title V permit or continue meeting major source administrative requirements under section 112 of the CAA. Some of the facilities benefitting from this action are owned by small entities, and these entities may experience a more beneficial impact than the large entities that will also experience a reduction in costs from the burden reductions that would take place as a result of this rule.

The results of the EIA for the primary scenario show that the annual cost savings per sales for all affected industries is around 0.05 percent, using the median of these annual cost savings per sales estimates calculated by industry, with sales averaging approximately $9.3 billion per affected industry, to determine average impact. The details of the EIA and impacts on employment, as well as results of the EIA for the other two alternative scenarios, are presented in the RIA of the final rule, which is available in the docket for this action.

IX. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order and 13563: Improving Regulation and Regulatory Review

This action is an economically significant regulatory action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, the RIA for the final MM2A rule, is available in the docket and is summarized in section I of this preamble.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated potential net cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action (see the RIA for the final rule, which is in the docket for this action).

C. Paperwork Reduction Act (PRA)

This action does not impose any new information-collection burden under the PRA. Specifically, this rule requires the electronic reporting of the one-time notification already required in 40 CFR 63.9(j) in the case where the facility is notifying of a change in major source status. OMB has previously approved the information collection activities contained in the existing regulations. These amendments would neither require additional reports nor require that additional content be added to already required reports. Therefore, this action would not impose any new information-collection burden. Furthermore, approval of an Information Collection Request (ICR) is not required in connection with these final amendments. This is because the General Provisions do not themselves require any reporting and recordkeeping activities, and no ICR was submitted in connection with their original promulgation or their subsequent amendment. Any recordkeeping and reporting requirements are imposed only through the incorporation of specific elements of the General Provisions in the individual NESHAP, which are promulgated for particular source categories that have their own ICRs.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule.

Small entities that are subject to major source NESHAP requirements would not be required to take any action under this final rule; any action a source takes to reclassify as an area source would be voluntary. We expect that sources that reclassify will experience cost savings that will outweigh any additional cost of achieving area source status. The only cost that would be incurred by regulatory authorities would be the cost of reviewing a sources' application for area source status and issuing enforceable PTE limits, as appropriate. No small government jurisdictions operate their own air pollution control permitting agencies, so none would be required to incur costs under the final rule. In addition, any costs associated with the reclassification of major sources as area sources (*i.e.,* application reviews and PTE issuance) are expected to be offset by reduced reporting and recordkeeping obligations for sources that no longer must meet major source NESHAP requirements.

Based on the considerations above, we have, therefore, concluded that this action will relieve regulatory burden for all regulated small entities that reclassify to area source status. We also note that a small-entity analysis, prepared at the discretion of the EPA and reflecting the relief in regulatory burden, was prepared for this final rule and is included in the RIA, which is available in the public docket for this rulemaking. The results of this small-entity analysis show relatively small reductions in burden estimate annual costs (about 0.10 percent) as a percentage of sales using the median estimate as the average of impacts.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Since the impacts of this action are merely illustrative of potential outcomes, it precludes identifying additional costs to states as an unfunded mandate.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. There are two tribes that currently implement title V permit programs and one that implements an approved TIP for minor source permitting, the latter of which also has a major source. As a result, these tribes may have additional permit actions if sources in their jurisdiction seek reclassification to area source status. Any tribal government that owns or operates a source subject to major

source NESHAP requirements would not be required to take action under this final rule; the reclassification provisions in the final rule would be strictly voluntary. In addition, achieving area source status would result in reduced burden on any source that no longer must meet major source NESHAP requirements. Under the final rule, a tribal government with an air pollution control agency to which we have delegated CAA section 112 authority would be required to review permit applications and to modify permits as necessary. However, any burden associated with the review and modification of permits will be offset by reduced Agency oversight obligations for sources no longer required to meet major source requirements.

For sources located within Indian country, where the EPA is the reviewing authority, unless the EPA has approved a non-federal minor source permitting program or a delegation of the Federal Indian Country Minor NSR Rule, the Federal Indian Country Minor NSR Rule at 40 CFR 49.151 through 49.165 provides a mechanism for an otherwise major source to voluntarily accept restrictions on its PTE to become a synthetic source, among other provisions. The Federal Indian Country Minor NSR Rule applies to sources located within the exterior boundaries of an Indian reservation or other lands as specified in 40 CFR part 49, collectively referred to as "Indian country." See 40 CFR 49.151(c) and 49.152(d). This mechanism may also be used by an otherwise major source of HAP to voluntarily accept restrictions on its PTE to become a synthetic area HAP source. The EPA's FIP program, which includes the Federal Indian Country Minor NSR Rule, provides additional options for particular situations, such as general permits for specific source categories, to facilitate minor source emissions management in Indian country. Existing sources in Indian country may have PTE limits that preceded the EPA's FIP for minor sources and, for that reason, were issued in a 40 CFR part 71 permit or FIP permitting provision applicable to the Indian reservation.

At proposal, the EPA specifically solicited comment from tribal officials and, consistent with EPA policy, offered to consult with the potentially impacted tribes and other tribes upon their request. On June 27, 2019, the EPA sent consultation letters to four tribes that may be impacted by this action. The EPA also gave an overview of the proposed action on a call with the National Tribal Air Association on June 27, 2019, and held an informational webinar for tribes on July 24, 2019. In addition, we sent consultation letters to the 573 federally recognized tribes on September 27, 2019, and held an informational call with one tribe on October 21, 2019. The EPA did not receive any requests for tribal consultation on this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it implements the plain reading of the definitions of major source and area source as established by Congress in section 112 of the CAA.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this final action is not likely to have any adverse energy effects.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. The final amendments to the General Provisions are procedural changes and do not impact the technology performance nor level of control of the NESHAP governed by the General Provisions.

L. Determination Under CAA Section 307(d)

Pursuant to CAA section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of CAA section 307(d). Section 307(d)(1)(V) of the CAA provides that the provisions of CAA section 307(d) apply to "such other actions as the Administrator may determine."

M. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Area sources, General provisions, Hazardous air pollutants, Major sources, Potential to emit.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Amend § 63.1 by adding paragraph (c)(6) to read as follows:

§ 63.1 Applicability.

* * * * *

(c) * * *

(6) A major source may become an area source at any time upon reducing its emissions of and potential to emit hazardous air pollutants, as defined in this subpart, to below the major source thresholds established in § 63.2, subject to the provisions in paragraphs (c)(6)(i) and (ii) of this section.

(i) A major source reclassifying to area source status is subject to the applicability of standards, compliance dates and notification requirements specified in (c)(6)(i)(A) of this section. An area source that previously was a major source and becomes a major source again is subject to the applicability of standards, compliance dates, and notification requirements specified in (c)(6)(i)(B) of this section:

(A) A major source reclassifying to area source status under this part remains subject to any applicable major source requirements established under this part until the reclassification becomes effective. After the reclassification becomes effective, the source is subject to any applicable area

source requirements established under this part immediately, provided the compliance date for the area source requirements has passed. The owner or operator of a major source that becomes an area source subject to newly applicable area source requirements under this part must comply with the initial notification requirements pursuant to § 63.9(b). The owner or operator of a major source that becomes an area source must also provide to the Administrator any change in the information already provided under § 63.9(b) per § 63.9(j).

(B) An area source that previously was a major source under this part and that becomes a major source again is subject to the applicable major source requirements established under this part immediately upon becoming a major source again, provided the compliance date for the major source requirements has passed, notwithstanding any provision within the applicable subparts. The owner or operator of an area source that becomes a major source again must comply with the initial notification pursuant to § 63.9(b). The owner or operator must also provide to the Administrator any change in the information already provided under § 63.9(b) per § 63.9(j).

(ii) Becoming an area source does not absolve a source subject to an enforcement action or investigation for major source violations or infractions from the consequences of any actions occurring when the source was major. Becoming a major source does not absolve a source subject to an enforcement action or investigation for area source violations or infractions from the consequences of any actions occurring when the source was an area source.

* * * * *

■ 3. Amend § 63.2 by revising the definition "Potential to emit" to read as follows:

§ 63.2 Definitions.

* * * * *

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable.

* * * * *

■ 4. Amend § 63.6 by revising paragraphs (b)(7) and (c)(1) and (5) to read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(b) * * *

(7) When an area source increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source, the portion of the facility that meets the definition of a new affected source must comply with all requirements of that standard applicable to new sources. The source owner or operator must comply with the relevant standard upon startup.

* * * * *

(c) * * *

(1) After the effective date of a relevant standard established under this part pursuant to section 112(d) or 112(h) of the Act, the owner or operator of an existing source shall comply with such standard by the compliance date established by the Administrator in the applicable subpart(s) of this part, except as provided in § 63.1(c)(6)(i). Except as otherwise provided for in section 112 of the Act, in no case will the compliance date established for an existing source in an applicable subpart of this part exceed 3 years after the effective date of such standard.

* * * * *

(5) Except as provided in paragraph (b)(7) of this section, the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source and meets the definition of an existing source in the applicable major source standard shall be subject to relevant standards for existing sources. Except as provided in paragraph § 63.1(c)(6)(i)(B), such sources must comply by the date specified in the standards for existing area sources that become major sources. If no such compliance date is specified in the standards, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in the relevant standard for existing sources in existence at the time the standard becomes effective.

* * * * *

■ 5. Amend § 63.9 by revising paragraphs (b)(1)(ii) and (j) and adding paragraph (k) to read as follows:

§ 63.9 Notification requirements.

* * * * *

(b) * * *

(1) * * *

(ii) If an area source subsequently becomes a major source that is subject to the emission standard or other requirement, such source shall be subject to the notification requirements of this section. Area sources previously subject to major source requirements that become major sources again are also subject to the notification requirements of this paragraph and must submit the notification according to the requirements of paragraph (k) of this section.

* * * * *

(j) *Change in information already provided.* Any change in the information already provided under this section shall be provided to the Administrator within 15 calendar days after the change. The owner or operator of a major source that reclassifies to area source status is also subject to the notification requirements of this paragraph. The owner or operator may use the application for reclassification with the regulatory authority (*e.g.,* permit application) to fulfill the requirements of this paragraph. A source which reclassified after January 25, 2018, and before January 19, 2021, and has not yet provided the notification of a change in information is required to provide such notification no later than February 2, 2021, according to the requirements of paragraph (k) of this section. Beginning January 19, 2021, the owner or operator of a major source that reclassifies to area source status must submit the notification according to the requirements of paragraph (k) of this section. A notification of reclassification must contain the following information:

(1) The name and address of the owner or operator;

(2) The address (*i.e.,* physical location) of the affected source;

(3) An identification of the standard being reclassified from and to (if applicable); and

(4) Date of effectiveness of the reclassification.

(k) *Electronic submission of notifications or reports.* If you are required to submit notifications or reports following the procedure specified in this paragraph (k), you must submit notifications or reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The notification or report must be submitted by the deadline specified. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to

be CBI. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI, submit a complete notification or report, including information claimed to be CBI, to the EPA. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (k). All CBI claims must be asserted at the time of submission. Furthermore, under section 114(c) of the Act emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(1) If you are required to electronically submit a notification or report by this paragraph (k) through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the electronic submittal requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (k)(1)(i) through (vii) of this section.

(i) You must have been or will be precluded from accessing CEDRI and submitting a required notification or report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(ii) The outage must have occurred within the period of time beginning 5 business days prior to the date that the notification or report is due.

(iii) The outage may be planned or unplanned.

(iv) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(v) You must provide to the Administrator a written description identifying:

(A) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(B) A rationale for attributing the delay in submitting beyond the regulatory deadline to EPA system outage;

(C) Measures taken or to be taken to minimize the delay in submitting; and

(D) The date by which you propose to submit, or if you have already met the electronic submittal requirement in this paragraph (k) at the time of the notification, the date you submitted the notification or report.

(vi) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(vii) In any circumstance, the notification or report must be submitted electronically as soon as possible after the outage is resolved.

(2) If you are required to electronically submit a notification or report by this paragraph (k) through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the electronic submittal requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (k)(2)(i) through (v) of this section.

(i) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a notification or report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(ii) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in submitting through CEDRI.

(iii) You must provide to the Administrator:

(A) A written description of the force majeure event;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(C) Measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to submit the notification or report, or if you have already met the electronic submittal requirement in this paragraph (k) at the time of the notification, the date you submitted the notification or report.

(iv) The decision to accept the claim of force majeure and allow an extension to the submittal deadline is solely within the discretion of the Administrator.

(v) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 6. Amend § 63.10 by revising paragraph (b)(3) to read as follows:

§ 63.10 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(3) If an owner or operator determines that his or her existing or new stationary source is in the source category regulated by a standard established pursuant to section 112 of the Act, but that source is not subject to the relevant standard (or other requirement established under this part) because of enforceable limitations on the source's potential to emit, or the source otherwise qualifies for an exclusion, the owner or operator must keep a record of the applicability determination. The applicability determination must be kept on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source subject to the relevant standard (or other requirement established under this part), whichever comes first if the determination is made prior to January 19, 2021. The applicability determination must be kept until the source changes its operations to become an affected source subject to the relevant standard (or other requirement established under this part) if the determination was made on or after January 19, 2021. The record of the applicability determination must be signed by the person making the determination and include an emissions analysis (or other information) that demonstrates the owner or operator's conclusion that the source is unaffected (*e.g.,* because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the Administrator to make an applicability finding for the source with regard to the relevant standard or other requirement. If applicable, the analysis must be performed in accordance with requirements established in relevant subparts of this part for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under section 112 of the Act, if any. The requirements to

determine applicability of a standard under § 63.1(b)(3) and to record the results of that determination under this paragraph (b)(3) of this section shall not by themselves create an obligation for the owner or operator to obtain a title V permit.

* * * * *

■ 7. Amend § 63.12 by revising paragraph (c) to read as follows:

§ 63.12 State authority and delegations.

* * * * *

(c) All information required to be submitted to the EPA under this part also shall be submitted to the appropriate state agency of any state to which authority has been delegated under section 112(l) of the Act, provided that each specific delegation may exempt sources from a certain federal or state reporting requirement. Any information required to be submitted electronically by this part via the EPA's CEDRI may, at the discretion of the delegated authority, satisfy the requirements of this paragraph. The Administrator may permit all or some of the information to be submitted to the appropriate state agency only, instead of to the EPA and the state agency with the exception of federal electronic reporting requirements under this part. Sources may not be exempted from federal electronic reporting requirements.

■ 8. Amend § 63.13 by revising paragraph (a) introductory text to read as follows:

§ 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted to the appropriate Regional Office of the U.S. Environmental Protection Agency indicated in the following list of EPA Regional offices. If a request, report, application, submittal, or other communication is required by this part to be submitted electronically via the EPA's CEDRI then such submission satisfies the requirements of this paragraph (a).

* * * * *

Subpart F—National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

■ 9. Amend table 3 to subpart F of part 63 by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 3 TO SUBPART F OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPARTS F, G, AND H [a] TO SUBPART F

Reference	Applies to subparts F, G, and H	Comment
* * * * * * *		
63.1(c)(6)	Yes.	
* * * * * * *		
63.9(j)	Yes	Only as related to change to major source status.
63.9(k)	Yes	Only as specified in § 63.9(j).
* * * * * * *		

[a] Wherever subpart A specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (*e.g.,* by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not necessarily required.

* * * * *

Subpart G—National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater

■ 10. Amend § 63.151 by revising paragraphs (b)(2)(i) through (iii) to read as follows:

§ 63.151 Initial notification.

* * * * *

(b) * * *

(2) * * *

(i) For an existing source, the Initial Notification shall be submitted within 120 calendar days after the date of promulgation, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(ii) For a new source that has an initial start-up 90 calendar days after the date of promulgation of this subpart or later, the application for approval of construction or reconstruction required by § 63.5(d) of subpart A shall be submitted in lieu of the Initial Notification. The application shall be submitted as soon as practicable before construction or reconstruction is planned to commence (but it need not be sooner than 90 calendar days after the date of promulgation of this subpart). For a new source that reclassifies to major source status after January 19, 2021 and greater than 90 days after the initial start-up, the source shall submit the initial notification required by § 63.9(b) no later than 120 days after the source becomes subject to this subpart.

(iii) For a new source that has an initial start-up prior to 90 calendar days after the date of promulgation, the Initial Notification shall be submitted within 90 calendar days after the date of promulgation of this subpart, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The application for approval of construction or reconstruction described in § 63.5(d) of subpart A is not required for these sources.

* * * * *

■ 11. Amend table 1A to subpart G by revising the entry for § 63.9 to read as follows:

TABLE 1A TO SUBPART G OF PART 63—APPLICABLE 40 CFR PART 63 GENERAL PROVISIONS

40 CFR part 63, subpart A, provisions applicable to subpart G
* * * * * * *
§ 63.9(a)(2), (b)(4)(i),[a] (b)(4)(ii), (b)(4)(iii), (b)(5),[a] (c), (d), (j), and (k).

TABLE 1A TO SUBPART G OF PART 63—APPLICABLE 40 CFR PART 63 GENERAL PROVISIONS—Continued

40 CFR part 63, subpart A, provisions applicable to subpart G
* * * * * * *

[a] The notifications specified in § 63.9(b)(4)(i) and (b)(5) shall be submitted at the times specified in 40 CFR part 65.

* * * * *

Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

■ 12. Amend § 63.182 by revising paragraphs (b)(2)(i) through (iii) to read as follows:

§ 63.182 Reporting requirements.

* * * * *

(b) * * *

(2) * * *

(i) For an existing source, the Initial Notification shall be submitted within 120 calendar days after the date of promulgation or no later than 120 calendar days after the source becomes subject to this subpart, whichever is later.

(ii) For a new source that has an initial start-up 90 days after the date of promulgation of this subpart or later, the application for approval of construction or reconstruction required by § 63.5(d) of subpart A of this part shall be submitted in lieu of the Initial Notification. The application shall be submitted as soon as practicable before the construction or reconstruction is planned to commence (but it need not be sooner than 90 days after the date of promulgation of the subpart that references this subpart). For a new source that reclassifies to major source status after January 19, 2021 and greater than 90 days after the initial start-up, the source shall submit the initial notification required by § 63.9(b) no later than 120 days after the source becomes subject to this subpart.

(iii) For a new source that has an initial start-up prior to 90 days after the date of promulgation of the applicable subpart, the Initial Notification shall be submitted within 90 days after the date of promulgation of the subpart that references this subpart, or no later than 120 calendar days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 13. Amend table 4 to subpart H by revising entry for § 63.9 to read as follows:

TABLE 4 TO SUBPART H OF PART 63—APPLICABLE 40 CFR PART 63 GENERAL PROVISIONS

40 CFR part 63, subpart A, provisions applicable to subpart H
* * * * * * *
§ 63.9(a)(2), (b)(4)(i),[a] (b)(4)(ii), (b)(4)(iii), (b)(5),[a] (c), (d), (j) and (k).
* * * * * * *

[a] The notifications specified in § 63.9(b)(4)(i) and (b)(5) shall be submitted at the times specified in 40 CFR part 65.

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

■ 14. Amend § 63.215 by revising paragraph (b) introductory text and adding paragraph (b)(4) to read as follows:

§ 63.215 What General Provisions apply to me?

* * * * *

(b) The provisions in subpart A of this part also apply to this subpart as specified in paragraphs (b)(1) through (4) of this section.

* * * * *

(4) The specific notification procedure of § 63.9(j) and (k) relating to a change in major source status.

Subpart L—National Emission Standards for Coke Oven Batteries

■ 15. Amend § 63.311 by revising paragraph (a) to read as follows:

§ 63.311 Reporting and recordkeeping requirements.

(a) *General requirements.* After the effective date of an approved permit in a state under part 70 of this chapter, the owner or operator shall submit all notifications and reports required by this subpart to the state permitting authority except a source that reclassifies to an area source must follow the notification procedures of § 63.9(j) and (k). Use of information provided by the certified observer shall be a sufficient basis for notifications required under § 70.5(c)(9) of this chapter and the reasonable inquiry requirement of § 70.5(d) of this chapter.

* * * * *

Subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

■ 16. Amend § 63.324 by adding paragraph (g) to read as follows:

§ 63.324 Reporting and recordkeeping requirements.

* * * * *

(g) Each owner or operator of a dry cleaning facility that reclassifies from a major source to an area source must follow the procedures of § 63.9(j) and (k) to provide notification of the change in status.

Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

■ 17. Amend § 63.347 by revising paragraph (c)(1) introductory text to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(c) * * *

(1) The owner or operator of an affected source that has an initial startup before January 25, 1995, shall notify the Administrator in writing that the source is subject to this subpart. The notification shall be submitted no later than 180 calendar days after January 25, 1995, or no later than 120 days after the source becomes subject to this subpart,

whichever is later, and shall contain the following information:

* * * * *

■ 18. Amend table 1 to subpart N of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART N OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART N

General provisions reference	Applies to subpart N	Comment
* *	* *	* * *
63.1(c)(6)	Yes.	
* *	* *	* * *
63.9(k)	Yes	Only as specified in § 63.9(j).
* *	* *	* * *

Subpart O—Ethylene Oxide Emissions Standards for Sterilization Facilities

■ 19. Amend § 63.360 in table 1 of § 63.360 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

§ 63.360 Applicability.

* * * * *

TABLE 1 OF § 63.360—GENERAL PROVISIONS APPLICABILITY TO SUBPART O

Reference	Applies to sources using 10 tons in subpart O [a]	Applies to sources using 1 to 10 tons in subpart O [a]	Comment
* *	* *	* * *	* *
63.1(c)(6)	Yes		
* *	* *	* * *	* *
63.9(k)	Yes		Only as specified in § 63.9(j).
* *	* *	* * *	* *

[a] See definition.

* * * * *

Subpart Q—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

■ 20. Amend § 63.405 by revising paragraphs (a)(1) introductory text, (a)(2), and (b)(1) to read as follows:

§ 63.405 Notification requirements.

(a) * * *

(1) In accordance with § 63.9(b) of subpart A, owners or operators of all affected IPCT's that have an initial startup before September 8, 1994, shall notify the Administrator in writing. The notification, which shall be submitted not later than 12 months after September 8, 1994, or no later than 120 days after the source becomes subject to this subpart, whichever is later, shall provide the following information:

* * * * *

(2) In accordance with § 63.9(b) of subpart A, owners or operators of all affected IPCT's that have an initial startup on or after September 8, 1994, shall notify the Administrator in writing that the source is subject to the relevant standard no later than 12 months after initial startup or no later than 120 days after the source becomes subject to this subpart, whichever is later. The notification shall provide all the information required in paragraphs (a)(1)(i) through (iv) of this section.

(b) * * *

(1) In accordance with § 63.9(h) of subpart A, owners or operators of affected IPCT's shall submit to the Administrator a notification of compliance status within 60 days of the date on which the IPCT is brought into compliance with § 63.402 of this subpart and not later than 18 months after September 8, 1994, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 21. Amend table 1 to subpart Q of part 63 by revising the entry for § 63.9 to read as follows:

TABLE 1 TO SUBPART Q OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART Q

Reference	Applies to subpart Q	Comment
* *	* *	* * *
63.9(a), (b)(1), (b)(3), (c), (h)(1), (h)(3), (h)(6), (j), and (k).	Yes	§ 63.9(k) only as specified in 63.9(j).
* *	* *	* * *

Subpart R—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

■ 22. Amend table 1 to subpart R of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART R OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART R

Reference	Applies to subpart R	Comment
* * *	* * *	* * *
63.1(c)(6)	Yes.	
* * *	* * *	* * *
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

Subpart S—National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

■ 23. Amend § 63.455 by revising paragraph (a) to read as follows:

§ 63.455 Reporting requirements.

(a) Each owner or operator of a source subject to this subpart shall comply with the reporting requirements of subpart A of this part as specified in Table 1 to subpart S of part 63 and all the following requirements in this section. The initial notification report specified under § 63.9(b)(2) of subpart A of this part shall be submitted by April 15, 1999, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 24. Amend table 1 to subpart S of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART S OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART S[a]

Reference	Applies to subpart S	Comment
* * *	* * *	* * *
63.1(c)(6)	Yes.	
* * *	* * *	* * *
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

[a] Wherever subpart A specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (*e.g.,* by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

Subpart T—National Emission Standards for Halogenated Solvent Cleaning

■ 25. Amend § 63.468 by revising the introductory text of paragraphs (a), (b), (c), and (d) to read as follows:

§ 63.468 Reporting requirements.

(a) Each owner or operator of an existing solvent cleaning machine subject to the provisions of this subpart shall submit an initial notification report to the Administrator no later than August 29, 1995, or no later than 120 days after the source becomes subject to this subpart, whichever is later. This report shall include the information specified in paragraphs (a)(1) through (6) of this section.

* * * * *

(b) Each owner or operator of a new solvent cleaning machine subject to the provisions of this subpart shall submit an initial notification report to the Administrator. New sources for which construction or reconstruction had commenced and initial startup had not occurred before December 2, 1994, shall submit this report as soon as practicable before startup but no later than January 31, 1995, or no later than 120 days after the source becomes subject to this subpart, whichever is later. New sources for which the construction or reconstruction commenced after December 2, 1994, shall submit this report as soon as practicable before the construction or reconstruction is planned to commence or for sources which reclassify to major source status, no later than 120 days after the source becomes subject to this subpart. This report shall include all of the information required in § 63.5(d)(1) of subpart A (General Provisions), with the revisions and additions in paragraphs (b)(1) through (b)(3) of this section.

* * * * *

(c) Each owner or operator of a batch cold solvent cleaning machine subject to the provisions of this subpart shall submit a compliance report to the Administrator. For existing sources, this report shall be submitted to the Administrator no later than 150 days after the compliance date specified in § 63.460(d), or no later than 120 days after the source becomes subject to this subpart, whichever is later. For new sources, this report shall be submitted to the Administrator no later than 150 days after startup or May 1, 1995, or no later than 120 days after the source becomes subject to this subpart, whichever is

later. This report shall include the requirements specified in paragraphs (c)(1) through (4) of this section.

* * * * *

(d) Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of § 63.463 shall submit to the Administrator an initial statement of compliance for each solvent cleaning machine. For existing sources, this report shall be submitted to the Administrator no later than 150 days after the compliance date specified in § 63.460(d), or no later than 120 days after the source becomes subject to this subpart, whichever is later. For new sources, this report shall be submitted to the Administrator no later than 150 days after startup or May 1, 1995, or no later than 120 days after the source becomes subject to this subpart, whichever is later. This statement shall include the requirements specified in paragraphs (d)(1) through (6) of this section.

* * * * *

■ 26. Amend appendix B to subpart T of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX B TO SUBPART T OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART T

Reference	Applies to subpart T		Comments
	BCC	BVI	
* * *	* * *	* * *	
63.1(c)(6)	Yes	Yes.	
* * *	* * *	* * *	
63.9(k)	Yes	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	

* * * * *

Subpart U—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

■ 27. Amend table 1 to subpart U of part 63 by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART U OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES

Reference	Applies to subpart U	Explanation
* * *	* * *	
§ 63.1(c)(6)	Yes.	
* * *	* * *	
§ 63.9(j)	Yes	For change in major source status only.
§ 63.9(k)	Yes	Only as specified in § 63.9(j).

TABLE 1 TO SUBPART U OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART U AFFECTED SOURCES—Continued

Reference	Applies to subpart U	Explanation
* * *	* * *	

* * * * *

Subpart W—National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production

■ 28. Amend table 1 to subpart W of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART W OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART W

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	
* * *	* * *	* * *		
§ 63.1(c)(6)	Yes	Yes	Yes.	
* * *	* * *	* * *		
§ 63.9(k)	Yes	Yes	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *		

Subpart X—National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

■ 29. Amend table 1 to subpart X of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART X OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART X

Reference	Applies to subpart X	Comment
* * *	*	*
63.9(k)	Yes	Only as specified in 63.9(j).
* * *	*	*

* * * * *

Subpart Y–National Emission Standards for Marine Tank Vessel Loading Operations

■ 30. Amend § 63.567 by revising paragraphs (b)(2) introductory text and (b)(3) to read as follows:

§ 63.567 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) *Initial notification for sources with startup before the effective date.* The owner or operator of a source with initial startup before the effective date shall notify the Administrator in writing that the source is subject to the relevant standard. The notification shall be submitted not later than 365 days after the effective date of the emissions standards or no later than 120 days after the source becomes subject to this subpart, whichever is later, and shall provide the following information:

* * * * *

(3) *Initial notification for sources with startup after the effective date.* The owner or operator of a new or reconstructed source or a source that has been reconstructed such that it is subject to the emissions standards that has an initial startup after the effective date but before the compliance date, and for which an application for approval of construction or reconstruction is not required under § 63.5(d) of subpart A of this part and § 63.566 of this subpart, or a sources which reclassifies to major source status after the effective date, shall notify the Administrator in writing that the source is subject to the standard no later than 365 days, 120 days after initial startup, or no later than 120 days after the source becomes subject to this subpart, whichever occurs before notification of the initial performance test in § 63.9(e) of subpart A of this part. The notification shall provide all the information required in paragraph (b)(2) of this section, delivered or postmarked with the notification required in paragraph (b)(4) of this section.

* * * * *

■ 31. Amend table 1 of § 63.560 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

§ 63.560 Applicability and designation of affected sources.

* * * * *

TABLE 1 TO § 63.560—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y

Reference	Applies to affected sources in subpart Y	Comment
* * *	*	*
63.1(c)(6)	Yes.	
* * *	*	*
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	*	*

Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

■ 32. Amend appendix A to subpart AA of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA

40 CFR citation	Requirement	Applies to subpart AA	Comment
* *	*	* *	* *
§ 63.1(c)(6)		Yes	None.
* *	*	* *	* *
§ 63.9(k)		Yes	Only as specified in § 63.9(j).
* *	*	* *	* *

Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

■ 33. Amend appendix A to subpart BB of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX A TO SUBPART BB OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART BB

40 CFR citation	Requirement	Applies to subpart BB	Comment
* * *	* * *	* * *	* * *
§ 63.1(c)(6)		Yes	None.
* * *	* * *	* * *	* * *
§ 63.9(k)		Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart CC–National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

■ 34. Amend appendix to subpart CC of part 63 in table 6 by adding in numerical order an entry for § 63.1(c)(6) revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

Appendix to Subpart CC of Part 63–Tables

* * * * *

TABLE 6—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]

Reference	Applies to subpart CC	Comment
* * *	* * *	* * *
63.1(c)(6)	Yes.	
* * *	* * *	* * *
63.9(j)	Yes	
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

[a] Wherever subpart A specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (*e.g.,* by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

* * * * *

Subpart DD—National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations

■ 35. Amend § 63.697 by revising paragraph (a)(1) introductory text to read as follows:

§ 63.697 Reporting requirements.

(a) * * *

(1) The owner or operator of an affected source must submit notices to the Administrator in accordance with the applicable notification requirements in 40 CFR 63.9 as specified in Table 2 of this subpart. For the purpose of this subpart, an owner or operator subject to the initial notification requirements under 40 CFR 63.9(b)(2) must submit the required notification on or before October 19, 1999, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 36. Amend table 2 to subpart DD of part 63 by adding in numerical order an entry for § 63.1(c)(6) in numerical order, revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

Subpart A reference	Applies to subpart DD	Explanation
* * *	* * *	* * *
63.1(c)(6)	Yes.	
* * *	* * *	* * *
63.9(j)	Yes	For change in major source status only.
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

* * * * *

Subpart EE–National Emission Standards for Magnetic Tape Manufacturing Operations

■ 37. Amend table 1 to subpart EE of part 63 by revising the entry for 63.9(b)(2) and adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART EE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EE

Reference	Applies to subpart EE	Comment
* *	* *	* * *
63.1(c)(6)	Yes.	
* *	* *	* * *
63.9(b)(2)	Yes	§ 63.753(a)(1) requires submittal of the initial notification at least 1 year prior to the compliance date or as specified in § 63.9(b)(2); § 63.753(a)(2) allows a title V or part 70 permit application to be substituted for the initial notification in certain circumstances.
* *	* *	* * *
63.9(k)	Yes	Only as specified in § 63.9(j).
* *	* *	* * *

Subpart GG–National Emission Standards for Aerospace Manufacturing and Rework Facilities

■ 38. Amend table 1 to subpart GG of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART GG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GG

Reference	Applies to affected sources in subpart GG	Comment
* *	* *	* * *
63.1(c)(6)	Yes.	
* *	* *	* * *
63.9(k)	Yes	Only as specified in § 63.9(j).
* *	* *	* * *

Subpart HH—National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

■ 39. Amend § 63.760 by revising paragraph (a)(1) introductory text to read as follows:

§ 63.760 Applicability and designation of affected source.

(a) * * *

(1) Facilities that are major or area sources of hazardous air pollutants (HAP) as defined in § 63.761. Emissions for major source determination purposes can be estimated using the maximum natural gas or hydrocarbon liquid throughput, as appropriate, calculated in paragraphs (a)(1)(i) through (iii) of this section. As an alternative to calculating the maximum natural gas or hydrocarbon liquid throughput, the owner or operator of a new or existing source may use the facility's design maximum natural gas or hydrocarbon liquid throughput to estimate the maximum potential emissions. Other means to determine the facility's major source status are allowed, provided the information is documented and recorded to the Administrator's satisfaction in accordance with § 63.10(b)(3). A facility that is determined to be an area source, but subsequently increases its emissions or its potential to emit above the major source levels, and becomes a major source, must comply with all provisions of this subpart applicable to a major source starting on the applicable compliance date specified in paragraph (f) of this section. Nothing in this paragraph is intended to preclude a source from limiting its potential to emit through other appropriate mechanisms that may be available through the permitting authority.

* * * * *

■ 40. Amend § 63.775 by revising paragraph (c)(1) to read as follows:

§ 63.775 Reporting requirements.

* * * * *

(c) * * *

(1) The initial notifications required under § 63.9(b)(2) not later than January 3, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later. In addition to submitting your initial notification to the addressees specified under § 63.9(a), you must also submit a copy of the initial notification to the EPA's Office of Air Quality Planning and Standards. Send your notification via email to *Oil*

and Gas Sector@epa.gov or via U.S. mail or other mail delivery service to U.S. EPA, Sector Policies and Programs Division/Fuels and Incineration Group (E143–01), Attn: Oil and Gas Project Leader, Research Triangle Park, NC 27711.

* * * * *

■ 41. Amend appendix to subpart HH of part 63 in table 2 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

Appendix to Subpart HH of Part 63—Tables

* * * * *

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

General provisions reference	Applicable to subpart HH	Explanation
* *	*	* *
§ 63.1(c)(6) ...	Yes.	
* *	*	* *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

Subpart II—National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

■ 42. Amend table 1 to subpart II of part 63 by removing the entry for § 63.9(i)–(j) and adding in its place § 63.9(i)–(k).

The addition reads as follows:

TABLE 1 TO SUBPART II OF PART 63—GENERAL PROVISIONS OF APPLICABILITY TO SUBPART II

Reference	Applies to subpart II	Comment
* *	*	* * *
63.9(i)–(k)	Yes	§ 63.9(k) only as specified in § 63.9(j).
* *	*	* * *

Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations

■ 43. Amend table 1 to subpart JJ of part 63 by revising the entry for § 63.9(b) and adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART JJ OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART JJ

Reference	Applies to subpart JJ	Comment
* *	*	* * *
63.1(c)(6)	Yes.	
* *	*	* * *
63.9(b)	Yes	Existing sources are required to submit initial notification report within 270 days of the effective date or no later than 120 days after the source becomes subject to this subpart, whichever is later.
* *	*	* * *
63.9(k)	Yes	Only as specified in 63.9(j).
* *	*	* * *

Subpart KK—National Emission Standards for the Printing and Publishing Industry

■ 44. Amend § 63.830 by revising (b)(1)(i) to read as follows:

§ 63.830 Reporting requirements.

* * * * *

(b) * * *

(1) * * *

(i) Initial notifications for existing sources shall be submitted no later than one year before the compliance date specified in § 63.826(a), or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 45. Amend table 1 to subpart KK of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART KK OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KK

General provisions reference	Applicable to subpart KK	Comment
* * *	* * *	* * *
§ 63.1(c)(6)	Yes.	
* * *	* * *	* * *
§ 63.9(k)	Yes	Only as specified in 63.9(j).
* * *	* * *	* * *

Subpart LL—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

■ 46. Amend appendix A to subpart LL of part 63 adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX A TO SUBPART LL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Reference sections(s)	Requirement	Applies to subpart LL	Comment
* * *	* * *	* * *	* * *
63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

■ 47. Amend table 1 to subpart MM of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART MM OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART MM

General provisions reference	Summary of requirements	Applies to subpart MM	Explanation
* * *	* * *	* * *	* * *
63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

■ 48. Amend § 63.1100 by revising paragraph (b) to read as follows:

§ 63.1100 Applicability.

* * * * *

(b) *Subpart A requirements.* The following provisions of subpart A of this part (General Provisions), §§ 63.1 through 63.5, and §§ 63.12 through 63.15, apply to owners or operators of affected sources subject to this subpart. For sources that reclassify from major source to area source status, the applicable provisions of § 63.9(j) and (k) apply. Beginning no later than the compliance dates specified in § 63.1102(c), for ethylene production affected sources, §§ 63.7(a)(4), (c), (e)(4), and (g)(2) and 63.10(b)(2)(vi) also apply.

* * * * *

Subpart CCC—National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants

■ 49. Amend § 63.1163 by revising paragraph (a)(3) to read as follows:

§ 63.1163 Notification requirements.

(a) * * *

(3) As required by § 63.9(b)(3) of subpart A of this part, the owner or operator of a new or reconstructed affected source, or a source that has been reconstructed such that it is an affected source, that has an initial startup after the effective date and for which an application for approval of construction or reconstruction is not required under § 63.5(d) of subpart A of this part, shall notify the Administrator in writing that the source is subject to the standards no later than 120 days after initial startup, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The notification shall contain the information specified in §§ 63.9(b)(2)(i) through (v) of subpart A of this part, delivered or postmarked with the notification required in § 63.9(b)(5) of subpart A of this part.

* * * * *

■ 50. Amend table 1 to subpart CCC of part 63 by adding in numerical order entries for §§ 63.9(j) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART CCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART CCC

Reference	Applies to subpart CCC	Explanation
* *	*	* *
63.9(j)	Yes.	
63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

TABLE 1 TO SUBPART CCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART CCC—Continued

Subpart DDD—National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

■ 51. Amend table 1 to subpart DDD of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63

General provisions citation	Requirement	Applies to subpart DDD?	Explanation
* *	*	* *	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	*	* *	* *
§ 63.9(k)		Yes	Only as specified in § 63.9(j).
* *	*	* *	* *

Subpart EEE—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors

■ 52. Amend table 1 to subpart EEE of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART EEE OF PART 63—GENERAL PROVISIONS APPLICABLE TO SUBPART EEE

Reference	Applies to subpart EEE	Explanation
* *	*	* *
63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

Subpart GGG—National Emission Standards for Pharmaceuticals Production

■ 53. Amend table 1 to subpart GGG of part 63 is amended by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART GGG OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART GGG

General provisions reference	Summary of requirements	Applies to subpart GGG	Comments
* *	*	* *	* *
63.1(c)(6)	Reclassification	Yes.	
* *	*	* *	* *
63.9(j)	Change in information provided	Yes	For change in major source status only.
63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	*	* *	* *

Subpart HHH—National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

■ 54. Amend § 63.1270 by revising paragraph (a) introductory text to read as follows:

§ 63.1270 Applicability and designation of affected source.

(a) This subpart applies to owners and operators of natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user (if there is no local distribution company), and that are major sources of hazardous air pollutants (HAP) emissions as defined in § 63.1271. Emissions for major source determination purposes can be estimated using the maximum natural gas throughput calculated in either paragraph (a)(1) or (2) of this section and paragraphs (a)(3) and (4) of this section. As an alternative to calculating the maximum natural gas throughput, the owner or operator of a new or existing source may use the facility design maximum natural gas throughput to estimate the maximum potential emissions. Other means to determine the facility's major source status are allowed, provided the information is documented and recorded to the Administrator's satisfaction in accordance with § 63.10(b)(3). A compressor station that transports natural gas prior to the point of custody transfer or to a natural gas processing plant (if present) is not considered a part of the natural gas transmission and storage source category. A facility that is determined to be an area source, but subsequently increases its emissions or its potential to emit above the major source levels (without obtaining and complying with other limitations that keep its potential to emit HAP below major source levels), and becomes a major source, must comply with all applicable provisions of this subpart starting on the applicable compliance date specified in paragraph (d) of this section. Nothing in this paragraph is intended to preclude a source from limiting its potential to emit through other appropriate mechanisms that may be available through the permitting authority.

* * * * *

■ 55. Amend table 2 to subpart HHH of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX: TABLE 2 TO SUBPART HHH OF PART 63-APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART HHH

General provisions Reference	Applicable to subpart HHH	Explanation
* *	*	* *
§ 63.1(c)(6) ...	Yes.	
* *	*	* *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

Subpart III—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

■ 56. Amend table 1 to subpart III of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART III OF PART 63—APPLICABILITY GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART III

Subpart A reference	Applies to Subpart III	Comment
* *	*	* *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

Subpart JJJ—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

■ 57. Amend table 1 to subpart JJJ of part 63 is amended by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART JJJ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJ AFFECTED SOURCES

Reference	Applies to Subpart JJJ	Explanation
* *	*	* *
§ 63.1(c)(6)	Yes.	
* *	*	* *
§ 63.9(j)	Yes	For change in major source status only.
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* *	*	* *

Subpart LLL—National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

■ 58. Amend table 1 to subpart LLL of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART LLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Requirement	Applies to subpart LLL	Explanation
* * *	* * *	* * *	* * *
63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

■ 59. Amend table 1 to subpart MMM of part 63 by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART MMM OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Explanation
* * *	* * *	* * *
§ 63.1(c)(6)	Yes.	
* * *	* * *	* * *
§ 63.9(j)	Yes	For change in major source status only, § 63.1368(h) specifies procedures for other notification of changes.
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

Subpart NNN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

■ 60. Amend table 1 to subpart NNN of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART NNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART NNN

General provisions citation	Requirement	Applies to subpart NNN?	Explanation
* * *	* * *	* * *	* * *
§ 63.1(c)(6)		Yes.	
* * *	* * *	* * *	* * *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).	
* * *	* * *	* * *	* * *

Subpart OOO—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

■ 61. Amend table 1 to subpart OOO of part 63 by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

Reference	Applies to subpart OOO	Explanation
* * *	* * *	* *
63.1(c)(6)	Yes.	
* * *	* * *	* *
63.9(j)	Yes	For change in major source status only.
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* *

Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

■ 62. Amend § 63.1434 by revising paragraphs (d) and (e) to read as follows:

§ 63.1434 Equipment leak provisions.

* * * * *

(d) When the HON equipment leak Initial Notification requirements contained in §§ 63.182(a)(1) and 63.182(b) are referred to in 40 CFR part 63, subpart H, the owner or operator shall comply with the Initial Notification requirements contained in § 63.1439(e)(3), for the purposes of this subpart. The Initial Notification shall be submitted no later than June 1, 2000, or no later than 120 days after the source becomes subject to this subpart, whichever is later, for existing sources.

(e) The HON equipment leak Notification of Compliance Status required by §§ 63.182(a)(2) and 63.182(c) shall be submitted within 150 days (rather than 90 days) of the applicable compliance date specified in § 63.1422 for the equipment leak provisions. The Initial Notification shall be submitted no later than June 1, 2000, or no later than 120 days after the source becomes subject to this subpart, whichever is later, for existing sources.

* * * * *

■ 63. Amend § 63.1439 by revising paragraphs (e)(3)(ii)(B) and (C) to read as follows:

§ 63.1439 General recordkeeping and reporting provisions.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(B) For a new source that has an initial start-up on or after August 30, 1999, the application for approval of construction or reconstruction required by the General Provisions in § 63.5(d) shall be submitted in lieu of the Initial Notification. The application shall be submitted as soon as practical before construction or reconstruction is planned to commence (but it need not be sooner than August 30, 1999). For a new source that reclassifies to major source status after January 19, 2021, and greater than 90 days after the initial start-up, the source shall submit the initial notification required by 63.9(b) no later than 120 days after the source becomes subject to this subpart.

(C) For a new source that has an initial start-up prior to August 30, 1999, the Initial Notification shall be submitted no later than August 30, 1999, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The application for approval of construction or reconstruction described in the General Provisions' requirements in § 63.5(d) is not required for these sources.

* * * * *

■ 64. Amend table 1 to subpart PPP of part 63 by adding in numerical order an entry for § 63.1(c)(6), revising the entry for § 63.9(j), and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART PPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation
* * *	* * *	* *
63.1(c)(6)	Yes.	
* * *	* * *	* *
63.9(j)	Yes	For change in major source status only.
63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* *

Subpart QQQ—National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting

■ 65. Revise § 63.1441 to read as follows:

§ 63.1441 Am I subject to this subpart?

You are subject to this subpart if you own or operate a primary copper smelter that is (or is part of) a major source of hazardous air pollutant (HAP) emissions and your primary copper smelter uses batch copper converters as defined in § 63.1459. Your primary copper smelter is a major source of HAP if it emits or has the potential to emit any single HAP at the rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per year.

■ 66. Amend § 63.1454 by revising paragraph (b) to read as follows:

§ 63.1454 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start your affected source before June 12,

2002, you must submit your initial notification not later than October 10, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart RRR—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

■ 67. Amend appendix A to subpart RRR of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to subpart RRR	Comment
* *	*	*	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	*	*	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	*	*	* *

Subpart TTT—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

■ 68. Amend table 1 to subpart TTT of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART TTT OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART TTT

Reference	Applies to subpart TTT	Comment
* *	*	* *
63.9(k)	Yes	Only as specified in 63.9(j).
* *	*	* *

Subpart UUU—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

■ 69. Amend § 63.1574 by revising paragraph (b) to read as follows:

§ 63.1574 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your new affected source before April 11, 2002, you must submit the initial notification no later than August 9, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 70. Amend table 44 to subpart UUU of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

* * * * *

TABLE 44 TO SUBPART UUU OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART UUU

* * * * * * *

Citation	Subject	Applies to subpart UUU	Explanation
* *	*	*	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	*	*	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	*	*	* *

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

■ 71. Amend § 63.1591 by revising paragraphs (a)(1) and (2) to read as follows:

§ 63.1591 What are my notification requirements?

(a) * * *

(1) If you have an existing Group 1 or Group 2 POTW treatment plant, you must submit an initial notification by October 26, 2018, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(2) If you have a new Group 1 or Group 2 POTW treatment plant, you must submit an initial notification upon startup, or when the source becomes subject to this subpart, whichever is later.

* * * * *

■ 72. Amend table 1 to subpart VVV of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 1 TO SUBPART VVV OF PART 63—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV

General provisions reference	Applicable to subpart VVV	Explanation
* * *	* * *	* *
§ 63.1(c)(6)	Yes.	
* * *	* * *	* *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* *

Subpart XXX—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

■ 73. Amend table 1 to subpart XXX of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART XXX OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX

Reference	Applies to subpart XXX	Comment
* * *	* * *	* *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* *

Subpart DDDD—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

■ 74. Amend § 63.2280 by revising paragraph (b) to read as follows:

§ 63.2280 What notifications must I submit and when?

* * * * *

(b) You must submit an Initial Notification no later than 120 calendar days after September 28, 2004, 120 calendar days after initial startup, or no later than 120 days after the source becomes subject to this subpart, whichever is later, as specified in § 63.9(b)(2). Initial Notifications required to be submitted after August 13, 2020, for affected sources that commence construction or reconstruction after September 6, 2019, and on and after August 13, 2021, for all other affected sources submitting initial notifications required in § 63.9(b) must be submitted following the procedure specified in § 63.2281(h), (k), and (l).

* * * * *

■ 75. Amend table 10 to subpart DDDD of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDD

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
* *	*	*	* *	*
§ 63.9(k)	Electronic reporting procedures.	Electronic reporting procedures.	Yes, only as specified in § 63.9(j).	Yes, only as specified in § 63.9(j).

TABLE 10 TO SUBPART DDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDD—Continued

Citation	Subject	Brief description	Applies to this subpart before August 13, 2021, except as noted in footnote "1" to this table	Applies to this subpart on and after August 13, 2021, except as noted in footnote "1" to this table
*	*	*	*	*

Subpart EEEE—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

■ 76. Amend § 63.2382 by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.2382 What notifications must I submit and when and what information should be submitted?

* * * * *

(b) *Initial Notification.* (1) If you startup your affected source before February 3, 2004, you must submit the Initial Notification no later than 120 calendar days after February 3, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(2) If you startup your new or reconstructed affected source on or after February 3, 2004, you must submit the Initial Notification no later than 120 days after initial startup, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 77. Amend table 12 to subpart EEEE of part 63 by revising the entry for § 63.9(j) and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE

Citation	Subject	Brief description	Applies to subpart EEEE
*	*	*	*
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change.	Yes for change to major source status, other changes are reported in the first and subsequent compliance reports.
§ 63.9(k)	Electronic reporting procedures	Procedure to report electronically for notification in § 63.9(j).	Yes, only as specified in § 63.9(j).
*	*	*	*

Subpart FFFF—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing

■ 78. Amend § 63.2515 by designating the text of paragraph (b) introductory text after the subject heading as paragraph (b)(1) and revising newly designated paragraph (b)(1) to read as follows:

§ 63.2515 What notifications must I submit and when?

* * * * *

(b) * * *

(1) As specified in § 63.9(b)(2), if you startup your affected source before November 10, 2003, you must submit an initial notification not later than 120 calendar days after November 10, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 79. Amend table 12 to subpart FFFF of part 63 by revising the entry for § 63.9(j) and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 12 TO SUBPART FFFF OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF

Citation	Subject	Explanation
*	*	*
§ 63.9(j)	Change in previous information	Yes, for change in major source status, otherwise § 63.2520(e) specifies reporting requirements for process changes.
§ 63.9(k)	Electronic reporting procedures	Yes, as specified in § 63.9(j).
*	*	*

Subpart GGGG—National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production

■ 80. Amend § 63.2860 by revising paragraph (a) introductory text to read as follows:

§ 63.2860 What notifications must I submit and when?

* * * * *

(a) *Initial notification for existing sources.* For an existing source, submit an initial notification to the agency responsible for these NESHAP no later than 120 days after the effective date of this subpart, or no later than 120 days after the source becomes subject to this subpart, whichever is later. In the notification, include the items in paragraphs (a)(1) through (5) of this section:

* * * * *

■ 81. Amend § 63.2870 in table 1 to § 63.2870 by adding in numerical order entries for § 63.9(j) and (k) to read as follows:

§ 63.2870 What Parts of the General Provisions apply to me?

* * * * *

TABLE 1 TO § 63.2870—APPLICABILITY OF 40 CFR PART 63, SUBPART A, TO 40 CFR PART 63, SUBPART GGGG

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
*	*	*	*	*
§ 63.9(j)	Notification requirements	Change in previous information.	Yes.	
§ 63.9(k)	Notification requirements	Electronic reporting procedures.	Yes	Only as specified in § 63.9(j).
*	*	*	*	*

Subpart HHHH—National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production

■ 82. Amend table 2 to subpart HHHH of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART HHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART HHHH

Citation	Requirement	Applies to subpart HHHH	Explanation
§ 63.1(c)(6)	Reclassification	Yes.	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).

Subpart IIII—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks

■ 83. Amend § 63.3110 by revising paragraph (b) to read as follows:

§ 63.3110 What notifications must I submit?

* * * * *

(b) You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after the source becomes subject to this subpart, or 120 days after June 25, 2004, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after April 26, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. Existing sources that have previously submitted notifications of applicability of this rule pursuant to section 112(j) of the CAA are not required to submit an Initial Notification under § 63.9(b) except to identify and describe all additions to the affected source made pursuant to § 63.3082(c). If you elect to include the surface coating of new other motor vehicle bodies, body parts for new other motor vehicles, parts for new other motor vehicles, or aftermarket repair or replacement parts for other motor vehicles in your affected source pursuant to § 63.3082(c) and your affected source has an initial startup before February 20, 2007, then you must submit an Initial Notification of this election no later than 120 days after initial startup or February 20, 2007, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 84. Amend table 2 to subpart IIII of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART IIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63

Citation	Subject	Applicable to subpart IIII	Explanation
* * *	* * *	* * *	* * *
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating

■ 85. Amend § 63.3400 by revising paragraph (b)(1) to read as follows:

§ 63.3400 What notifications and reports must I submit?

* * * * *

(b) * * *

(1) Initial notification for existing affected sources must be submitted no later than 1 year before the compliance date specified in § 63.3330(a), or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 86. Amend table 2 to subpart JJJJ of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

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

General provisions reference	Applicable to subpart JJJJ	Explanation
* * *	* * *	* * *
§ 63.1(c)(6)	Yes.	
* * *	* * *	* * *
§ 63.9(k)	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *

Subpart KKKK—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans

■ 87. Amend § 63.3510 by revising paragraph (b) to read as follows:

§ 63.3510 What notifications must I submit?

* * * * *

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, no later than 120 days after the source becomes subject to this subpart, or 120 days after November 13, 2003, whichever is later. For an existing affected source, you must submit the Initial Notification no later than November 13, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 88. Amend table 5 to subpart KKKK of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 5 TO SUBPART KKKK OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKK

Citation	Subject	Applicable to subpart KKKK	Explanation
* * *	* * *	* * *	* * *
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart MMMM—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products

■ 89. Amend § 63.3910 by revising paragraph (b) to read as follows:

§ 63.3910 What notifications must I submit?

* * * * *

(b) *Initial notification.* You must submit the initial notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after January 2, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. For an existing affected source, you must submit the initial notification no later than 1 year after January 2, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. If you are using compliance with the Surface Coating of Automobiles and Light-Duty Trucks NESHAP (subpart IIII of this part) as provided for under § 63.3881(d) to constitute compliance with this subpart for any or all of your metal parts coating operations, then you must include a statement to this effect in your initial notification, and no other notifications are required under this subpart in regard to those metal parts coating operations. If you are complying with another NESHAP that constitutes the predominant activity at your facility under § 63.3881(e)(2) to constitute compliance with this subpart for your metal parts coating operations, then you must include a statement to this effect in your initial notification, and no other notifications are required under this subpart in regard to those metal parts coating operations. If you own or operate an existing loop slitter or flame lamination affected source, submit an initial notification no later than 120 days after April 14, 2003, or no later than 120 days after the source becomes subject to this subpart.

* * * * *

■ 90. Amend table 2 to subpart MMMM of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART MMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63

* * * * * * *

Citation	Subject	Applicable to subpart MMMM	Explanation
* *	*	* *	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	*	* *	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	*	* *	* *

Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

■ 91. Amend § 63.4110 by revising paragraph (a)(1) to read as follows:

§ 63.4110 What notifications must I submit.

(a) * * *

(1) You must submit the Initial Notification required by § 63.9(b) for an existing affected source no later than July 23, 2003, or no later than 120 days after the source becomes subject to this subpart. For a new or reconstructed affected source, you must submit the Initial Notification no later than 120 days after initial startup, November 20, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 92. Amend table 2 to subpart NNNN of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART NNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN

* * * * * * *

Citation	Subject	Applicable to subpart NNNN	Explanation
* *	*	* *	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	*	* *	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	*	* *	* *

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

■ 93. Amend § 63.4310 by revising paragraph (b) to read as follows:

§ 63.4310 What notifications must I submit?

* * * * *

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after May 29, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after May 29, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 94. Amend table 3 to subpart OOOO of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 3 TO SUBPART OOOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO

Citation	Subject	Applicable to subpart OOOO	Explanation
* *	* *	* *	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	* *	* *	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	* *	* *	* *

Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

■ 95. Amend § 63.4510 by revising paragraph (b) to read as follows:

§ 63.4510 What notifications must I submit?

* * * * *

(b) *Initial notification.* You must submit the initial notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after April 19, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. For an existing affected source, you must submit the initial notification no later than 1 year after April 19, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. If you are using compliance with the Surface Coating of Automobiles and Light-Duty Trucks NESHAP (subpart IIII of this part) as provided for under § 63.4481(d) to constitute compliance with this subpart for any or all of your plastic parts coating operations, then you must include a statement to this effect in your initial notification, and no other notifications are required under this subpart in regard to those plastic parts coating operations. If you are complying with another NESHAP that constitutes the predominant activity at your facility under § 63.4481(e)(2) to constitute compliance with this subpart for your plastic parts coating operations, then you must include a statement to this effect in your initial notification, and no other notifications are required under this subpart in regard to those plastic parts coating operations.

* * * * *

■ 96. Amend table 2 to subpart PPPP of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63

Citation	Subject	Applicable to subpart PPPP	Explanation
* *	* *	* *	* *
§ 63.1(c)(6)	Reclassification	Yes.	
* *	* *	* *	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	* *	* *	* *

Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products

■ 97. Amend § 63.4710 by revising paragraph (b) to read as follows:

§ 63.4710 What notifications must I submit?

* * * * *

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after May 28, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 120 days after May 28, 2003, or no

later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 98. Amend table 4 to subpart QQQQ of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 4 TO SUBPART QQQQ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63

Citation	Subject	Applicable to subpart QQQQ	Explanation
* * *	* * *	* * *	
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	

Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

■ 99. Amend § 63.4910 by revising paragraph (b) to read as follows:

§ 63.4910 What notifications must I submit?

* * * * *

(b) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup, 120 days after May 23, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later. For an existing affected source, you must submit the Initial Notification no later than 1 year after May 23, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 100. Amend table 2 to subpart RRRR of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART RRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR

Citation	Subject	Applicable to subpart	Explanation
* * *	* * *	* * *	
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	

Subpart SSSS—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil

■ 101. Amend § 63.5180 by revising paragraph (b)(1) to read as follows:

§ 63.5180 What reports must I submit

* * * * *

(b) * * *

(1) Submit an initial notification for an existing source no later than 2 years after June 10, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 102. Amend table 2 to subpart SSSS of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 2 TO SUBPART SSSS OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS

General provisions reference	Applicable to subpart SSSS	Explanation
* * *	* * *	
§ 63.1(c)(6)	Yes.	
* * *	* * *	
§ 63.9(k)	Yes	Only as specified in § 63.9(j).

TABLE 2 TO SUBPART SSSS OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSS—Continued

General provisions reference	Applicable to subpart SSSS	Explanation
* * *	* * *	* * *

Subpart TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

■ 103. Amend § 63.5415 by revising paragraph (b) to read as follows:

§ 63.5415 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before February 27, 2002, you must submit an Initial Notification not later than June 27, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 104. Amend table 2 to subpart TTTT of part 63 by adding in numerical order entries for §§ 63.9(j) and (k) to read as follows:

TABLE 2 TO SUBPART TTTT OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
* * *	* * *	* * *	* * *	* * *
§ 63.9(j)	Notification requirements	Change in previous information.	Yes.	
§ 63.9(k)	Notification requirements	Electronic reporting procedures.	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *	* * *

Subpart UUUU—National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing

■ 105. Amend table 7 to subpart UUUU of part 63 by revising entry 4 to read as follows:

TABLE 7 TO SUBPART UUUU OF PART 63—NOTIFICATIONS

If you . . .	then you must . . .
* * *	* * *
4. start up your affected source before June 11, 2002	submit an initial notification no later than 120 days after June 11, 2002, or no later than 120 after the source becomes subject to this subpart, whichever is later, as specified in § 63.9(b)(2).
* * *	* * *

■ 106. Amend table 8 to subpart UUUU of part 63 by revising entry 7 to read as follows:

TABLE 8 TO SUBPART UUUU OF PART 63—REPORTING REQUIREMENTS

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
* * * * * * *	
7. the report must contain any changes in information already provided, as specified in § 63.9(j), except changes in major source status must be reported per § 63.9(j);	
* * * * * * *	

■ 107. Table 10 to subpart UUUU of part 63 is amended by revising the entry for § 63.9(j) and adding an entry for § 63.9(k), in numerical order, to read as follows:

TABLE 10 TO SUBPART UUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUU

Citation	Subject	Brief description	Applies to subpart UUUU
* * * * * * *			
§ 63.9(j)	Change in previous information	Must submit within 15 days of the change.	Yes, except the notification for all but change in major source status must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart.
§ 63.9(k)	Electronic reporting procedures	Procedure for electronically reporting the notification required by § 63.9(j).	Yes, as specified in § 63.9(j).
* * * * * * *			

Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

■ 108. Amend table 8 to subpart VVVV of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 8 TO SUBPART VVVV OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART VVVV

Citation	Requirement	Applies to subpart VVVV	Explanation
* * * * * * *			
§ 63.1(c)(6)	Reclassification	Yes.	
* * * * * * *			
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * * * * * *			

Subpart WWWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

■ 109. Amend table 2 to subpart WWWW of part 63 by revising entry 1 to read as follows:

TABLE 2 TO SUBPART WWWW OF PART 63—COMPLIANCE DATES FOR NEW AND EXISTING REINFORCED PLASTIC COMPOSITES FACILITIES

If your facility is . . .	And . . .	Then you must comply by this date . . .
* * *	* * *	* * *
1. An existing source	a. Is a major source on or before the publication date of this subpart	April 21, 2006.
* * *	* * *	* * *

■ 110. Amend table 15 to subpart WWWW of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 15 TO SUBPART WWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63

The general provisions reference	That addresses	And applies to subpart WWWW of part 63	Subject to the following additional information
* * *	* * *	* * *	* * *
§ 63.1(c)(6)	Reclassification	Yes	
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart XXXX—National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

■ 111. Amend § 63.6009 by revising paragraph (b) to read as follows:

§ 63.6009 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your affected source before July 9, 2002, you must submit an Initial Notification not later than November 6, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 112. Amend table 17 to subpart XXXX of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 17 TO SUBPART XXXX OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX

Citation	Subject	Brief description of applicable sections	Applicable to subpart XXXX?	
			Using a control device	Not using a control device
* * *	* * *	* * *	* * *	* * *
§ 63.9(k)	Notification	Electronic reporting procedures.	Yes, as specified in § 63.9(j).	Yes, as specified in § 63.9(j).
* * *	* * *	* * *	* * *	* * *

Subpart YYYY—National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines

■ 113. Amend § 63.6145 by revising paragraph (b) to read as follows:

§ 63.6145 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your new or reconstructed stationary combustion turbine before March 5, 2004, you must submit an Initial Notification not later than 120 calendar days after March 5, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 114. Amend table 7 to subpart YYYY of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 7 TO SUBPART YYYY OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART YYYY

Citation	Requirement	Applies to subpart YYYY	Explanation
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

■ 115. Amend § 63.6645 by revising paragraphs (b) and (d) to read as follows:

§ 63.6645 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart, you must submit an Initial Notification not later than December 13, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

(d) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart and you are required to submit an initial notification, you must submit an Initial Notification not later than July 16, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 116. Amend table 8 to subpart ZZZZ of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

* * * * *

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ

General provisions citation	Subject of citation	Applies to subpart	Explanation
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart AAAAA—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants

■ 117. Amend § 63.7130 by revising paragraphs (b) and (c) to read as follows:

§ 63.7130 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before January 5, 2004, you must submit an initial notification not later than 120 calendar days after January 5, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(c) If you startup your new or reconstructed affected source on or after January 5, 2004, you must submit an initial notification not later than 120 calendar days after you start up your affected source, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 118. Amend table 8 to subpart AAAAA of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

TABLE 8 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
* * *	* * *	* * *	* * *
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart BBBBB—National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing

■ 119. Amend § 63.7189 by revising paragraph (b) to read as follows:

§ 63.7189 What applications and notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before May 22, 2003, you must submit an Initial Notification not later than 120 calendar days after May 22, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

■ 120. Amend § 63.7340 by revising paragraph (b) to read as follows:

§ 63.7340 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your affected source before April 14, 2003, you must submit your initial notification no later than August 12, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters

■ 121. Amend § 63.7545 by revising paragraphs (b) and (c) to read as follows:

§ 63.7189 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your affected source before January 31, 2013, you must submit an Initial Notification not later than 120 days after January 31, 2013, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(c) As specified in § 63.9(b)(4) and (5), if you startup your new or reconstructed affected source on or after January 31, 2013, you must submit an Initial Notification not later than 15 days after the actual date of startup of the affected source. For a new or reconstructed affected source that has reclassified to major source status, you must submit an Initial Notification not later 120 days after the source becomes subject to this subpart.

* * * * *

Subpart EEEEE—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries

■ 122. Amend § 63.7750 by revising paragraph (b) to read as follows:

§ 63.7750 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your iron and steel foundry before April 22, 2004, you must submit your initial notification no later than August 20, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

■ 123. Amend § 63.7840 by revising paragraph (b) to read as follows:

§ 63.7840 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you startup your affected source before May 20, 2003, you must submit your initial notification no later than September 17, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation

■ 124. Amend § 63.7950 by revising paragraphs (b) and (c) to read as follows:

§ 63.7950 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before October 8, 2003, you must submit an Initial Notification not later than 120 calendar days after October 8, 2003, or no later than 120 calendar days after the source becomes subject to this subpart, whichever is later.

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after the effective date, you must submit an Initial Notification no later than 120 calendar days after initial startup, or no later than 120 calendar days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 125. Amend table 3 to subpart GGGGG of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 3 TO SUBPART GGGGG OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG

* * * * * * *

Citation	Subject	Brief description	Applies to subpart GGGGG
* *	* *	* *	* *
§ 63.9(k)	Electronic reporting procedures	Electronic reporting procedures for notifications per § 63.9(j).	Yes.
* *	* *	* *	* *

Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing

■ 126. Amend § 63.8070 by revising paragraph (b)(1) to read as follows:

§ 63.8070 What notifications must I submit and when?

* * * * *

(b) * * *

(1) As specified in § 63.9(b)(2), if you have an existing affected source on December 11, 2003, you must submit an initial notification not later than 120 calendar days after December 11, 2003, or no later than 120 calendar days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 127. Amend table 10 to subpart HHHHH of part 63 by revising the entry for § 63.9(j) and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHH

* * * * * * *

Citation	Subject	Explanation
* *	* *	* * *
§ 63.9(j)	Change in previous information	Yes, for change in major source status, otherwise § 63.8075(e)(8) specifies reporting requirements for process changes.
§ 63.9(k)	Electronic reporting procedures	Yes, as specified in § 63.9(j).
* *	* *	* * *

Subpart IIIII—National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants

■ 128. Amend § 63.8252 by revising paragraph (b) to read as follows:

§ 63.825 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before December 19, 2003, you must submit an Initial Notification no later than 120 calendar days after December 19, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 129. Amend table 10 to subpart IIIII of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 10 TO SUBPART IIIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIIII

* * * * * * *

Citation	Subject	Applies to subpart IIIII	Explanation
* *	* *	* *	* *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* *	* *	* *	* *

Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing

■ 130. Amend table 8 to subpart JJJJJ of part 63 by revising entry 1 to read as follows:

TABLE 8 TO SUBPART JJJJJ OF PART 63—DEADLINES FOR SUBMITTING NOTIFICATIONS

If you . . .	You must . . .	No later than . . .	As specified in . . .
* * * * * * *			
1. Start up your affected source before December 28, 2015.	Submit an Initial Notification.	June 22, 2016, or no later than 120 days after the source becomes subject to this subpart, whichever is later.	§ 63.9(b)(2).
* * * * * * *			

■ 131. Amend table 10 to subpart JJJJJ of part 63 adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 10 TO SUBPART JJJJJ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJJJ

Citation	Subject	Brief description	Applies to subpart JJJJJ?
* * * * * * *			
§ 63.9(k)	Electronic reporting procedures.	Electronic reporting procedures for notifications per § 63.9(j).	Yes.
* * * * * * *			

Subpart KKKKK—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing

■ 132. Amend table 9 to subpart KKKKK of part 63 by revising entry 1 to read as follows:

TABLE 9 TO SUBPART KKKKK OF PART 63—DEADLINES FOR SUBMITTING NOTIFICATIONS

If you . . .	You must . . .	No later than . . .	As specified in . . .
* * * * * * *			
1. Start up your affected source before December 28, 2015.	Submit an Initial Notification	June 22, 2016, or no later than 120 days after the source becomes subject to this subpart, whichever is later.	§ 63.9(b)(2).
* * * * * * *			

■ 133. Amend table 11 to subpart KKKKK of part 63 adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 11 TO SUBPART KKKKK OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART KKKKK

Citation	Subject	Brief description	Applies to subpart KKKKK?
* * * * * * *			
§ 63.9(k)	Electronic reporting procedures	Electronic reporting procedures for notifications per § 63.9(j).	Yes.
* * * * * * *			

Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

■ 134. Amend § 63.8692 by revising paragraph (b) to read as follows:

§ 63.8692 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 29, 2003, you must submit an Initial Notification not later than 120 calendar days after April 29, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 135. Amend table 7 to subpart LLLLL of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 7 TO SUBPART LLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL

Citation	Subject	Brief description	Applies to subpart LLLLL
*	*	*	*
§ 63.9(k)	Electronic reporting procedures.	Electronic reporting procedures for notifications per § 63.9(j).	Yes.
*	*	*	*

Subpart MMMMM—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

■ 136. Amend § 63.8816 by revising paragraph (b) to read as follows:

§ 63.8816 What notifications must I submit and when?

* * * * *

(b) If you own or operate an existing loop slitter or flame lamination affected source, submit an initial notification no later than 120 days after April 14, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 137. Amend table 7 to subpart MMMMM of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 7 TO SUBPART MMMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM

* * * * * * *

Citation	Requirement	Applies to subpart MMMMM	Explanation
*	*	*	*
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
*	*	*	*

Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

■ 138. Amend § 63.9045 by revising paragraph (b) to read as follows:

§ 63.9045 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 17, 2003, you must submit an Initial Notification not later than 120 calendar days after April 17, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 139. Amend table 7 to subpart NNNNN of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 7 TO SUBPART NNNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN

* * * * * * *

Citation	Requirement	Applies to subpart NNNNN	Explanation
*	*	*	*
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
*	*	*	*

Subpart PPPPP—National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands

■ 140. Amend § 63.9345 by revising paragraph (b)(1) to read as follows:

§ 63.9345 What notifications must I submit and when?

* * * * *

(b) * * *

(1) As specified in § 63.9(b)(2), if you start up your new or reconstructed affected source before the effective date of this subpart, you must submit an Initial Notification not later than 120 calendar days after May 27, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 141. Amend table 7 to subpart PPPPP of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:

* * * * *

TABLE 7 TO SUBPART PPPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPP

Citation	Subject	Brief description	Applies to subpart PPPPP
*	*	*	*
§ 63.1(c)(6)	Applicability	Reclassification	Yes.
*	*	*	*
§ 63.9(k)	Notifications	Electronic reporting procedures	Yes, only as specified in § 63.9(j).
*	*	*	*

Subpart QQQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

■ 142. Amend § 63.9485 by revising paragraph (a) to read as follows:

§ 63.9485 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a friction materials manufacturing facility (as defined in § 63.9565) that is (or is part of) a major source of hazardous air pollutants (HAP) emissions. Your friction materials manufacturing facility is a major source of HAP if it emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

* * * * *

■ 143. Amend § 63.9535 by revising paragraph (c) to read as follows:

§ 63.9535 What notifications must I submit and when?

* * * * *

(c) As specified in § 63.9(b)(2), if you start up your affected source before October 18, 2002, you must submit your initial notification no later than 120 calendar days after October 18, 2002, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 144. Amend table 1 to subpart QQQQQ of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

* * * * *

TABLE 1 TO SUBPART QQQQQ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ

Citation	Subject	Applies to subpart QQQQQ?	Explanation
*	*	*	*
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
*	*	*	*

Subpart RRRRR—National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing

■ 145. Revise § 63.9581 to read as follows:

§ 63.9581 Am I subject to this subpart?

You are subject to this subpart if you own or operate a taconite iron ore processing plant that is (or is part of) a major source of hazardous air pollutant (HAP) emissions. Your taconite iron ore processing plant is a major source of HAP if it emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more per year.

■ 146. Amend § 63.9640 by revising paragraph (b) to read as follows:

§ 63.9640 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before October 30, 2003, you must submit your initial notification no later than 120 calendar days after October 30, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 147. Amend table 2 to subpart RRRRR of part 63 by adding in numerical order entries for § 63.1(c)(6) and § 63.9(k) to read as follows:

* * * * *

TABLE 2 TO SUBPART RRRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRR OF PART 63

Citation	Subject	Applies to subpart RRRRR	Explanation
* * *	* * *	* * *	* * *
§ 63.1(c)(6)	Reclassification	Yes.	
* * *	* * *	* * *	* * *
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart SSSSS—National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

■ 148. Amend § 63.9812 by revising paragraph (b) to read as follows:

§ 63.9812 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before April 16, 2003, you must submit an Initial Notification no later than 120 calendar days after April 16, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

■ 149. Amend table 11 to subpart SSSSS of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

* * * * *

TABLE 11 TO SUBPART SSSSS OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSS

Citation	Subject	Brief description	Applies to subpart SSSSS
* * *	* * *	* * *	* * *
§ 63.9(k)	Notifications	Electronic reporting procedures	Yes, only as specified in § 63.9(j).
* * *	* * *	* * *	* * *

Subpart TTTTT—National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining

■ 150. Amend § 63.9930 by revising paragraph (b) to read as follows:

§ 63.9930 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before October 10, 2003, you must submit your initial notification no later than 120 calendar days after October 10, 2003, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart WWWWW—National Emission Standards for Hospital Ethylene Oxide Sterilizers

■ 151. Amend table 1 to subpart WWWWW of part 63 by removing the entry for § 63.9(d)–(j) and adding in numerical order entries for §§ 63.9(d)–(i) and 63.9(j)–(k).

The additions read as follows:

* * * * *

TABLE 1 TO SUBPART WWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART WWWWW

Citation	Subject	Applies to subpart WWWWW	Explanation
* * *	* * *	* * *	* * *
§ 63.9(d)–(i)	Other notifications	No.	
§ 63.9(j)–(k)	Change in information already submitted Electronic reporting.	Yes.	
* * *	* * *	* * *	* * *

Subpart BBBBBB—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

■ 152. Amend § 63.11086 by revising paragraph (e) introductory text to read as follows:

§ 63.11086 What requirements must I meet of my facility is a bulk gasoline plant?

* * * * *

(e) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later unless you meet the requirements in paragraph (g) of this section. The Initial Notification must contain the information specified in paragraphs (e)(1) through (4) of this section. The notification must be submitted to the applicable EPA Regional Office and the delegated state authority, as specified in § 63.13.

* * * * *

■ 153. Amend table 3 to subpart BBBBBB of part 63 by revising the entry for § 63.9(b) and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 3 TO SUBPART BBBBBB OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject	Brief description	Applies to subpart BBBBBB
*	*	*	*
§ 63.9(b) (1)–(2), (4)–(5)	Initial Notifications	Submit notification within 120 days after effective date, or no later than 120 days after the source becomes subject to this subpart, whichever is later; notification of intent to construct/reconstruct, notification of commencement of construction/reconstruction, notification of startup; contents of each.	Yes.
*	*	*	*
§ 63.9(k)	Notifications	Electronic reporting procedures	Yes, only as specified by § 63.9(j).
*	*	*	*

Subpart CCCCCC—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities

■ 154. Amend § 63.11124 by revising paragraphs (a)(1) introductory text and (b)(1) introductory text to read as follows:

§ 63.11124 What notifications must I submit and when?

(a) * * *

(1) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later, or at the time you become subject to the control requirements in § 63.11117, unless you meet the requirements in paragraph (a)(3) of this section. If your affected source is subject to the control requirements in § 63.11117 only because it loads gasoline into fuel tanks other than those in motor vehicles, as defined in § 63.11132, you must submit the Initial Notification by May 24, 2011, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The Initial Notification must contain the information specified in paragraphs (a)(1)(i) through (iii) of this section. The notification must be submitted to the applicable EPA Regional office and delegated state authority as specified in § 63.13.

* * * * *

(b) * * *

(1) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later, or at the time you become subject to the control requirements in § 63.11118. If your affected source is subject to the control requirements in § 63.11118 only because it loads gasoline into fuel tanks other than those in motor vehicles, as defined in § 63.11132, you must submit the Initial Notification by May 24, 2011, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The Initial Notification must contain the information specified in paragraphs (b)(1)(i) through (iii) of this section. The notification must be submitted to the applicable EPA Regional office and delegated state authority as specified in § 63.13.

* * * * *

■ 155. Amend table 3 to subpart CCCCCC of part 63 by revising the entry for § 63.9(b) and adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 3 TO SUBPART CCCCCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject	Brief description	Applies to subpart CCCCCC
*	*	*	*
§ 63.9(b)(1)–(2), (4)–(5)	Initial Notifications	Submit notification within 120 days after effective date, or no later than 120 days after the source becomes subject to this subpart, whichever is later; notification of intent to construct/reconstruct, notification of commencement of construction/reconstruction, notification of startup; contents of each.	Yes.

TABLE 3 TO SUBPART CCCCCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart CCCCCC
*	*	*	*
§ 63.9(k)	Notifications	Electronic reporting procedures	Yes, only as specified in § 63.9(j).
*	*	*	*

Subpart HHHHHH—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

■ 156. Amend § 63.11175 by revising paragraph (a) introductory text to read as follows:

§ 63.11175 What notifications must I submit?

(a) Initial Notification. If you are the owner or operator of a paint stripping operation using paint strippers containing MeCl and/or a surface coating operation subject to this subpart, you must submit the initial notification required by § 63.9(b). For a new affected source, you must submit the Initial Notification no later than 180 days after initial startup, or no later than 120 days after the source becomes subject to this subpart, or July 7, 2008, whichever is later. For an existing affected source, you must submit the initial notification no later than January 11, 2010, or no later than 120 days after the source becomes subject to this subpart. The initial notification must provide the information specified in paragraphs (a)(1) through (8) of this section.

* * * * *

■ 157. Amend table 1 to subpart HHHHHH of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:

TABLE 1 TO SUBPART HHHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHHH OF PART 63

Citation	Subject	Applicable to subpart HHHHHH	Explanation
*	*	*	*
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
*	*	*	*

Subpart PPPPPP—National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources

■ 158. Amend § 63.11425 by revising paragraphs (b) and (c) to read as follows:

§ 63.11425 What General Provisions apply to this subpart?

* * * * *

(b) For existing sources, the initial notification required by § 63.9(b) must be submitted not later than November 13, 2007, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

(c) For existing sources, the initial notification of compliance required by § 63.9(h) must be submitted not later than March 13, 2009, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

Subpart QQQQQQ—National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

■ 159. Amend § 63.11432 by revising paragraphs (b) introductory text and (c) to read as follows:

§ 63.11432 What General Provisions apply to this subpart?

* * * * *

(b) If you own or operate a new or existing affected source that uses any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, you must submit an initial notification of applicability required by § 63.9(b)(2) no later than 90 days after the applicable compliance date specified in § 63.11429, or no later than 90 days after the source becomes subject to this subpart, whichever is later. The initial notification may be combined with the notification of compliance status required in paragraph (c) of this section. The notification of applicability must include the following information:

* * * * *

(c) If you own or operate a new or existing affected source that uses any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, you must submit a notification of compliance status required by § 63.9(h) no later than 90 days after the applicable compliance date specified in § 63.11429, or no later than 90 days after the source becomes subject to this subpart, whichever is later. Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the standards in § 63.11430: "This facility complies with the management practices to minimize air emissions from the preservative treatment of wood in accordance with § 63.11430."

* * * * *

Subpart RRRRRR—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources

■ 160. Amend § 63.11441 by revising paragraph (a) to read as follows:

§ 63.11441 What are the notification requirements?

(a) You must submit an Initial Notification required by § 63.9(b)(2) no later than 120 days after the applicable compliance date specified in § 63.11437, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The Initial Notification must include the

information specified in §§ 63.9(b)(2)(i) through (iv) and may be combined with the Notification of Compliance Status required in paragraph (b) of this section.

* * * * *

Subpart TTTTTT—National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources

■ 161. Amend § 63.11469 by revising paragraph (a) to read as follows:

§ 63.11469 What are the notification requirements?

(a) You must submit the Initial Notification required by § 63.9(b)(2) no later than 120 days after the applicable compliance date specified in § 63.11464, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The Initial Notification must include the information specified in § 63.9(b)(2)(i) through (iv) and may be combined with the Notification of Compliance Status required in § 63.11467 and paragraph (b) of this section if you choose to submit both notifications within 120 days.

* * * * *

Subpart WWWWWW—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations

■ 162. Amend § 63.11509 by revising paragraph (a)(3) to read as follows:

§ 63.11509 What are my notification, reporting, and recordkeeping requirements?

(a) * * *

(3) If you start up your affected source on or before July 1, 2008, you must submit an Initial Notification not later than 120 calendar days after July 1, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart XXXXXX—National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories

■ 163. Amend § 63.11519 by revising paragraph (a)(1) introductory text to read as follows:

§ 63.11519 What are my notifications, recordkeeping, and reporting requirements?

(a) * * *

(1) *Initial notification.* If you are the owner or operator of an area source in one of the nine metal fabrication and finishing source categories, as defined in § 63.11514, you must submit the initial notification required by § 63.9(b), for a new affected source no later than 120 days after initial startup, or no later than 120 days after the source becomes subject to this subpart, or November 20, 2008, whichever is later. For an existing affected source, you must submit the initial notification no later than July 25, 2011, or 120 days after the source becomes subject to this subpart, whichever is later. Your initial notification must provide the information specified in paragraphs (a)(1)(i) through (iv) of this section.

* * * * *

Subpart YYYYYY—National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities

■ 164. Amend § 63.11529 by revising paragraph (a) to read as follows:

§ 63.11529 What are the notification, reporting, and recordkeeping requirements?

(a) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b)(2) no later than 120 days after December 23, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later. The Initial Notification must include the information specified in § 63.9(b)(2)(i) through (iv).

* * * * *

Subpart AAAAAAA—National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing

■ 165. Amend § 63.11564 by revising paragraph (a)(2) to read as follows:

§ 63.11564 What are my notification, recordkeeping, and reporting requirements?

(a) * * *

(2) As specified in § 63.9(b)(2), if you have an existing affected source, you must submit an Initial Notification not later than 120 calendar days after December 2, 2009, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Subpart BBBBBBB—National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry

■ 166. Amend § 63.11585 by revising paragraph (b)(1) to read as follows:

§ 63.11585 What are my notification, recordkeeping, and reporting requirements?

* * * * *

(b) * * *

(1) *Initial Notification of Applicability.* If you own or operate an existing affected source, you must submit an initial notification of applicability as required by § 63.9(b)(2) no later than April 29, 2010, or no later than 120 days after the source becomes subject to this subpart, whichever is later. If you own or operate a new affected source, you must submit an initial notification of applicability required by § 63.9(b)(2) no later than 120 days after initial start-up of operation, or no later than 120 days after the source becomes subject to this subpart, or April 29, 2010, whichever is later. The initial notification of applicability must include the information specified in §§ 63.9(b)(2)(i) through (iii).

* * * * *

Subpart CCCCCCC—National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing

■ 167. Amend § 63.11603 by revising paragraph (a)(1) introductory text to read as follows:

§ 63.11603 What are the notification, recordkeeping, and reporting requirements?

(a) * * *

(1) *Initial Notification of Applicability.* If you own or operate an existing affected source, you must submit an initial notification of applicability required by § 63.9(b)(2) no later than June 1, 2010, or no later than 120 days after the source becomes subject to this subpart, whichever is later. If you own or operate a new affected source, you must submit an initial notification of applicability required by § 63.9(b)(2) no later than 180 days after initial start-up of the operations, or no later than 120 days after the source becomes subject to this subpart, or June 1, 2010, whichever is later. The notification of applicability must include the information specified in paragraphs (a)(1)(i) through (iii) of this section.

* * * * *

Subpart HHHHHHH—National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production

■ 168. Amend table 4 to subpart HHHHHHH of part 63 by revising the entry for § 63.1 and adding in numerical

order an entry for § 63.9(k) to read as follows:

TABLE 4 TO SUBPART HHHHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PART 63

Citation	Subject	Applies to subpart HHHHHHH	Comment
§ 63.1(a)(1)–(a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (c)(6), (e).	Applicability	Yes.	
* * *	*	* *	*
§ 63.9(k)	Electronic reporting procedures.	Yes	Only as specified in § 63.9(j).
* * *	*	* *	*

[FR Doc. 2020–22044 Filed 11–10–20; 4:15 pm]

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damaged, destroyed, lost, or stolen, or if replacement is clinically indicated, subject to the following: Items that are serviceable, and that still meet the veteran's need, will not be replaced for the sole purpose of obtaining a newer model of the same or similar item.

(xiv) Specialized clothing made necessary by the wearing of a prosthetic device.

(xv) Training with and fitting of prescribed items.

(2) Paragraph (a)(1) of this section supplements the requirement in § 17.38(b) for a determination of need but only with respect to the provision of items and services listed in paragraph (a)(1) of this section. The exclusions under § 17.38(c) will apply to the items and services provided under this section. While VA will generally provide only one item under this section, the provision of spare items may be authorized based on a clinical determination of need using the criteria set forth in this section.

(b) Unless an item provided under § 17.3230(a) is loaned to the veteran based on a clinical determination that a loan is more beneficial for the veteran, such items become the property of the veteran once the veteran takes possession of those items. If the determination is that the item will be loaned to a veteran, the veteran must agree to the terms of the loan in order to receive the item.

§ 17.3240 Furnishing authorized items and services.

(a)(1) VA providers, or eligible entities and providers as defined in § 17.4005, will prescribe items and services in accordance with § 17.3230(a) and will do so in consultation with the veteran.

(2) Once the item or service is prescribed under paragraph (a)(1) of this section, VA will either fill such prescriptions directly or will pay for such prescriptions to be furnished through a VA-authorized vendor.

(3) The determination under paragraph (a)(2) of this section of whether a prescription will be filled by VA directly or will be furnished by a VA-authorized vendor will be based on, but not limited to, such factors as the veteran's clinical needs, VA capacity and availability, geographic availability, and cost.

(b) Except for emergency care under §§ 17.120 through 17.132, §§ 17.1000 through 17.1008, or § 17.4020(c), or urgent care under § 17.4600, prior authorization of items and services under § 17.3230 is required for VA to reimburse VA-authorized vendors for furnishing such items or services to veterans.

§ 17.3250 Veteran responsibilities.

(a) Veterans must use items provided under §§ 17.3230 and 17.3240 as they are prescribed, and consistent with the manufacturer's instructions and any training provided. Failure to do so may result in the item not being replaced under § 17.3230(a)(13).

(b) Except for emergency care under §§ 17.120 through 17.132, §§ 17.1000 through 17.1008, or § 17.4020(c), or urgent care under § 17.4600, veterans obtaining items and services provided under § 17.3230 must obtain prior authorization from VA in order to obtain VA reimbursement for such items and services obtained from a VA-authorized vendor. VA will not be responsible for the cost of items and services provided that are not preauthorized by VA or not covered as emergency care under §§ 17.120 through 17.132, §§ 17.1000 through 17.1008, or § 17.4020(c), or urgent care under § 17.4600.

[FR Doc. 2020–27014 Filed 12–23–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0282; FRL–10014–50–OAR and FRL–10019–02–OAR]

RIN 2060–AM75

Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on November 19, 2020, and will become effective on January 19, 2021. The EPA finalized the amendments to the General Provisions that apply to National Emission Standards for Hazardous Air Pollutants (NESHAP). This action corrects inadvertent typographical errors and redundant text in the **Federal Register**. The corrections described in this action do not affect the substantive requirements of the final rule implementing the plain language reading of the "major source" and "area source" definitions of section 112 of the Clean Air Act.

DATES: This final rule is effective on January 19, 2021.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Elineth Torres, Sector Policies and Programs Division (D205–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4347; fax number: (919) 541–4991; and email address: *torres.elineth@epa.gov*.

SUPPLEMENTARY INFORMATION: The EPA is making the following corrections to the final rule, Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (also refered as final Major MACT to Area or MM2A rule) as published in the **Federal Register** on November 19, 2020 (85 FR 73854).

The EPA is correcting inadvertent typographical errors and redundant text included in the regulatory text of six NESHAP subparts amended by the final MM2A rule. As described in the preamble to the final MM2A rule, the EPA finalized amendments to the NESHAP General Provision applicability tables for most of the NESHAP subparts to account for the final amendments to the General Provisions included in the final MM2A rule.

With this action, the EPA is correcting the following errors in FR Document Number (FR Doc) 2020–22044 in the issue of November 19, 2020. These corrections do not change the requirements finalized in the MM2A rule.

- At 85 FR 73894, second column, 40 CFR part 63, subpart EE. The final MM2A rule instruction 37 amended Table 1 to subpart EE by revising the entry for 40 CFR 63.9(b)(2), however, there is no such entry on Table 1 to subpart EE. In this action, instruction 37 is corrected to read "adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) . . ." and amendatory text is corrected by removing the entry for 40 CFR 63.9(b)(2) from Table 1 to Subpart EE of Part 63—Applicability of General Provisions to Subpart EE.
- At 85 FR 73897, third column, 40 CFR part 63, subpart DDD. The final MM2A rule instruction 51 amended Table 1 to subpart DDD to add an entry for 40 CFR 63.1(c)(6), however this addition is unnecessary as Table 1 to subpart DDD has another entry including that provision. In this action, instruction 51 is corrected to read ". . . by adding in numerical order an entry for § 63.9(k) . . ." and the amendatory text is corrected by removing the entry for 40 CFR 63.1(c)(6) from Table 1 to Subpart DDD of Part 63—Applicability of General Provisions (40 CFR part 63, subpart A) to Subpart DDD of Part 63.
- At 85 FR 73899, first column, 40 CFR part 63, subpart NNN. The final

MM2A rule instruction 60 amended Table 1 to subpart NNN to add an entry for 40 CFR 63.1(c)(6), however this addition is unnecessary as Table 1 to subpart NNN has another entry including that provision. In this action, instruction 60 is corrected to read ". . . by adding in numerical order an entry for § 63.9(k) . . ." and the amendatory text is corrected by removing the entry for 40 CFR 63.1(c)(6) from Table 1 to Subpart NNN of Part 63—Applicability of General Provisions (40 CFR part 63, subpart A) to Subpart NNN.

• At 85 FR 73912, third column, 40 CFR part 63, subpart AAAAA. The final MM2A rule instruction 118 reads as if amendments were for Table 8 to subpart AAAAA when they were for Table 9 to subpart AAAAA. In this action, instruction 118 is corrected to read "Amend table 9 to subpart AAAAA of part 63 . . .". The table header in the amendatory text is also corrected to read "Table 9 to Subpart AAAAA of Part 63—Applicability of General Provisions to Subpart AAAAA."

• At 85 FR 73913, first column, 40 CFR part 63, subpart DDDDD. The final MM2A rule instruction 121 correctly referenced the amendments to 40 CFR 63.7545, however, the corresponding section header in the amendatory text read "§ 63.7189 What notifications must I submit and when?" instead. In this action, the section header in the amendatory text is corrected to read "§ 63.7545 What notifications must I submit and when?"

• At 85 FR 73914, first column, 40 CFR part 63, subpart IIIII. The final MM2A rule instruction 128 correctly referenced the amendments to 40 CFR 63.8252, however, the corresponding regulatory text section header read "§ 63.825 What notifications must I submit and when?" instead. Additionally, the amendatory text at 85 FR 73914, second column for 40 CFR 63.8252(b) incorrectly referenced "120 calendar days after December 19, 2003" which should have remained April 19, 2004, as in the original regulatory text. In this action, the regulatory text section header is corrected to read "§ 63.8252 What notifications must I submit and when?"; and the amendatory text to paragraph (b) is corrected to read "(b) As specified in § 63.9(b)(2), if you start up your affected source before December 19, 2003, you must submit an Initial Notification no later than April 19, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later."

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because, as explained here and in each bullet above, the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the MM2A final rule. Rather, the changes correct inadvertent typographical errors and redundant text. Additionally, the corrections to the regulatory text match the revisions described in the preamble to the final MM2A rule. Thus, notice and opportunity for public comment are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

Federal Register Correction

In FR doc 2020–22044 at 85 FR 73854 in the issue of November 19, 2020, the following corrections are made:

■ 1. On page 73894, in the second column, amendatory instruction 37 is corrected to read: "37. Amend table 1 to subpart EE of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:".

■ 2. On page 73897, in the third column, amendatory instruction 51 is corrected to read: "51. Amend table 1 to subpart DDD of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:".

■ 3. On page 73899, first column, amendatory instruction 60 is corrected to read: "60. Amend table 1 to subpart NNN of part 63 by adding in numerical order an entry for § 63.9(k) to read as follows:".

■ 4. On page 73912, third column, amendatory instruction 118 and the table heading are corrected to read: "118. Amend table 9 to subpart AAAAA of part 63 by adding in numerical order entries for §§ 63.1(c)(6) and 63.9(k) to read as follows:"

TABLE 9 TO SUBPART AAAAA OF PART 63–APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

* * * * *

§ 63.7545 What notifications must I submit and when?

■ 5. On page 73913, second column, the section heading for § 63.7545 is corrected to read as set forth above.

■ 6. On page 73914, second column, in section § 63.8252 the section heading and paragraph (b) are corrected to read as follows:

§ 63.8252 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your affected source before December 19, 2003, you must submit an Initial Notification no later than April 19, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later.

* * * * *

Dated: December 17, 2020.

Anne Austin,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2020–28384 Filed 12–23–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8659]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur. Information identifying the current participation status of a community can be obtained from FEMA's CSB available at *www.fema.gov/flood-insurance/work-with-nfip/community-status-book.* Please note that per Revisions to Publication Requirements for Community Eligibility Status Information Under the National Flood Insurance Program, notices like this one for scheduled suspension will no longer be published in the **Federal Register** as of June 2021 but will be available at *www.fema.gov.* Individuals without

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0833; FRL–10006–94–OAR]

RIN 2060–AU19

National Emission Standards for Hazardous Air Pollutants: Site Remediation Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Site Remediation source category regulated under national emission standards for hazardous air pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing the proposed determination that risks due to emissions of air toxics from site remediation sources are acceptable and that no revision to the standards is required to provide an ample margin of safety to protect public health. Based on the results of our technology review, we are promulgating the proposed changes to the leak detection and repair (LDAR) program. In addition, the EPA is finalizing amendments to revise regulatory provisions pertaining to emissions during periods of startup, shutdown and malfunction (SSM), including finalizing work practice requirements for pressure relief devices (PRDs) and the 240-hour maintenance period for control devices on tanks. We are finalizing requirements for electronic submittal of semiannual reports and performance test results. Finally, we are making minor clarifications and corrections. The final revisions to the rule will increase the level of emissions control and environmental protection provided by the Site Remediation NESHAP.

DATES: This final rule is effective on July 10, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 10, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0833. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Eastern Standard Time (EST) Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Matthew Witosky, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2865; fax number: (919) 541–0516; and email address: *witosky.matthew@epa.gov.* For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564–7042; and email address: *Mia.Marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACC American Chemistry Council
ADAF age-dependent adjustment factors
API American Petroleum Institute
APR amino and phenolic resins
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CRA Congressional Review Act
EFH Exposure Factors Handbook
EPA Environmental Protection Agency
EtO ethylene oxide
HAP hazardous air pollutant(s)
HCl hydrochloric acid
NEI National Emissions Inventory
HHRAP Human Health Risk Assessment Protocol
HI hazard index
HQ hazard quotient
IARC International Agency for Research on Cancer
IBR incorporation by reference
ICR Information Collection Request
LDAR leak detection and repair
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OEHHA California Office of Environmental Health Hazard Assessment
OEL open-ended line
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbon
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PCDDs polychlorinated dibenzodioxins
PCDFs polychlorinated dibenzofurans
POM polycyclic organic matter
ppm parts per million
ppmw parts per million by weight
PRD pressure relief device
REL reference exposure level
RFA Regulatory Flexibility Act
RMMU remediation material management unit
RTR residual risk and technology review
SAB Science Advisory Board
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act

Background information. On September 3, 2019, the EPA proposed revisions to the Site Remediation NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the National Emission Standards for Hazardous Air Pollutant Emissions: Site Remediation Summary of Public Comments and Responses on Proposed Rule (84 FR 46138; September 3, 2019), Docket ID No. EPA–HQ–OAR–2018–0833. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the Site Remediation source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the Site Remediation source category in our September 3, 2019, proposal?
D. What other actions did we take for the Site Remediation source category in our September 3, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the Site Remediation source category?
B. What are the final rule amendments based on the technology review for the Site Remediation source category?
C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) for the Site Remediation source category?
D. What are the final rule amendments addressing emissions during periods of SSM?
E. What other changes have been made to the NESHAP?
F. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the Site Remediation source category?
A. Residual Risk Review for the Site Remediation Source Category
B. Technology Review for the Site Remediation Source Category
C. CAA Sections 112(d)(2) and (3) Amendments
D. Other Issues and Changes Made to the Site Remediation NESHAP
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS code [1]
Industry	40 CFR part 63, subpart GGGGG	325211 325192 325188 32411 49311 49319 48611 42269 42271
Federal Government		Federal agency facilities that conduct Site Remediation activities.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/siteremediation-national-emissionstandards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 8, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised

with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 46138 (September 3, 2019).

B. What is the Site Remediation source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the final Site Remediation NESHAP at 68 FR 58172 (October 8, 2003). The NESHAP applies to ''remediation material.'' Site remediation means one or more activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material. Monitoring or measuring of contamination levels in media, whether by using wells, sampling, or other means, is not considered to be a Site Remediation. The rule applies only to active remedial operations at sites that are major sources with affected facilities subject to another MACT standard. The Site Remediation NESHAP applies to various types of affected sources including process vents, remediation material management units, and equipment leaks. The affected source for process vents is the entire group of process vents associated with the in-situ and ex-situ remediation processes used at the site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material. Examples of process vents for in-situ remediation processes include the discharge vents to the atmosphere used for soil vapor extraction and underground bioremediation processes. Examples of process vents for ex-situ remediation processes include vents for thermal desorption, bioremediation, and stripping processes (air or steam stripping). The affected source for remediation material management units is the entire group of tanks, surface impoundments, containers, oil-water separators, and transfer systems used for the Site Remediation activities involving clean-up of remediation material. The affected source for equipment leaks is the entire group of remediation equipment components (pumps, valves, etc.) that is intended to operate for 300 hours or more during a calendar year in remediation material service and that contains or contacts remediation material having a concentration of regulated HAP equal to or greater than 10 percent by weight.

The Site Remediation MACT standards include a combination of equipment standards, work practice standards, operational standards, and performance standards for each of the

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

affected emission sources noted above. The source category covered by this MACT standard currently includes approximately 30 facilities.

C. What changes did we propose for the Site Remediation source category in our September 3, 2019, proposal?

On September 3, 2019, the EPA published proposed amendments in the **Federal Register** for the Site Remediation NESHAP, 40 CFR part 63, subpart GGGGG, that took into consideration the RTR analyses and also proposed other revisions. The proposed revisions included the following:

- Revisions to the equipment leak requirements to require the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps, rather than the thresholds of 40 CFR part 63, subpart TT;
- Revisions to requirements related to emissions during periods of SSM;
- The addition of requirements for electronic submittal of semiannual reports and performance tests;
- Removal of the 240-hour exemption from control requirements for planned routine maintenance of emissions control systems;
- Clarifications to the ''sealed'' requirement of the provisions for open-ended lines (OELs);
- Addition of work practice and monitoring requirements for PRDs; and
- Several minor clarifications and corrections.

D. What other actions did we take for the Site Remediation source category in our September 3, 2019, proposal?

Within the RTR proposal, the EPA separately solicited comment on ways in which the Site Remediation NESHAP could be amended with respect to facilities currently exempt under 40 CFR 63.7881(b)(2) and (3), under a scenario where the EPA removes the exemption. The exemption applies to facilities subject to federally-enforceable oversight under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In particular, in light of comments received on our 2016 proposal to remove the exemption, the Agency sought additional comment regarding subcategorization or other methods of distinguishing among appropriate requirements for such sources. We explained our intention to use this opportunity to gather additional information in anticipation of addressing these issues through a separate action.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Site Remediation source category and amends the SR NESHAP based on those determinations. We are also finalizing other proposed changes to the NESHAP and other changes made in consideration of comments received during the public comment period for the proposed rulemaking. In the following subsections, we summarize the final amendments to the Site Remediation NESHAP.

We are not finalizing any changes at this time to the exemption from the Site Remediation NESHAP requirements available for federally-overseen Site Remediations under RCRA or CERCLA, pursuant to 40 CFR 63.7881(b)(2) and (3). The agency is continuing to review comments related to our solicitation on this issue in the RTR proposal, see 84 FR 46167–69 (September 3, 2019), and comments on the May 13, 2016, proposal regarding the exemption (81 FR 29812), and intends to address this issue in a separate action.

A. What are the final rule amendments based on the risk review for the Site Remediation source category?

For the Site Remediation source category, we have determined that the current NESHAP reduces risk to an acceptable level, provides an ample margin of safety to protect public health, and prevents adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the NESHAP pursuant to CAA section 112(f).

B. What are the final rule amendments based on the technology review for the Site Remediation source category?

We have determined that there have been developments in practices, processes, and control technologies that warrant revisions to the Site Remediation NESHAP. Therefore, to satisfy the requirements of CAA section 112(d)(6), and as we proposed, we are revising the NESHAP to require facilities to use the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps, rather than those of 40 CFR part 63, subpart TT. For other Site Remediation emissions sources, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes, or control technologies to apply, considering the technical feasibility, estimated costs, and emission reductions of the options identified.

C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) for the Site Remediation source category?

Consistent with the Court's ruling in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), we are finalizing the proposed requirements, with two minor modifications, for safety devices, bypasses and closure devices on pressure tanks, and PRDs to ensure a standard continuously applies during malfunctions that result in an emissions release directly to the atmosphere (*i.e.,* an actuation event). These final requirements include work practices that consist of conducting an analysis of the cause of a PRD actuation event and the implementation of corrective measures. In addition, we are finalizing the proposed criteria for what constitutes a deviation from the work practice requirements. We are also finalizing the proposed requirement that PRDs be monitored with a device or monitoring system that is capable of (1) identifying the pressure release; (2) recording the time and duration of each pressure release; and (3) notifying operators immediately that a pressure release is occurring. Finally, we are finalizing the proposed recordkeeping and reporting requirements associated with releases to the atmosphere from bypasses and PRDs.

In response to comments received on the proposed rule, we are making two modifications to the proposed requirements and one change to the estimate of costs associated with PRD monitoring. One modification is to exclude PRDs on containers from the PRD work practice standards and monitoring requirements, and the other modification is to clarify when a PRD is subject to LDAR requirements and when a PRD is subject to the PRD actuation event work practice requirements. We have also revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

D. What are the final rule amendments addressing emissions during periods of SSM?

With one exception, we are finalizing changes to the Site Remediation NESHAP to eliminate the SSM exemption as proposed. Consistent with *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Table 3 to Subpart GGGGG of Part 63 (General Provisions applicability

table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We determined that facilities in this source category can meet the applicable emission standards in the Site Remediation NESHAP at all times, including periods of startup and shutdown; therefore, the EPA determined that no additional standards are needed to address emissions during these periods.

In response to comments received on the proposed rule, the EPA is making a change to the 240-hour annual control system bypass allowance for planned routine maintenance of a closed vent system or control device. Rather than remove this allowance for all control systems, the final rule will retain the allowance with the addition of a work practice requirement for storage tank control devices and closed vent systems.

E. What other changes have been made to the NESHAP?

This rule also finalizes revisions to several other Site Remediation NESHAP requirements. We describe the revisions in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners or operators of site remediation facilities submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

As proposed, the EPA is not establishing emission standards for inorganic or metal HAP.

Based on comments received on the proposed provisions for OELs, we are not finalizing the proposed language in the Site Remediation NESHAP that OELs are "sealed" by a cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to EPA Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 parts per million (ppm) or greater. Since OELs are present at many facilities, additional consideration of the proposed change would be appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term "sealed," and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action. The EPA emission estimates used in the risk modeling are based on reported emissions and we did not estimate HAP reductions from the proposed approach. For this reason, this decision not to finalize the OEL provisions does not alter our analysis of estimated emissions, risks, and decisions related to risk.

We are finalizing, as proposed, several miscellaneous minor changes to improve the clarity of the rule requirements.

F. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on July 10, 2020.

The compliance date for existing affected sources for the revised SSM requirements is 180 days after the effective date of the standard, January 6, 2021. The requirements for electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is 180 days after the effective date of the standard, January 6, 2021.

For electronic reporting, we have experience with similar industries shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to successfully complete the changes required to convert reporting mechanisms, including the installation of the necessary hardware and software, becoming familiar with the process of submitting performance test results electronically through the EPA's CEDRI, testing these new electronic submission capabilities, reliably employing electronic reporting, and converting the logistics of reporting processes to different time-reporting parameters.

We are finalizing the 180-day compliance date for the other requirements listed above for existing affected sources because we are finalizing changes to the requirements for SSM by removing the exemption from the requirements to meet a standard during SSM periods and by removing the requirement to develop and implement an SSM plan, as proposed. We have experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of SSM; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements.

The compliance date for existing affected sources to comply with the new PRD actuation work practice standard, including monitoring requirement and actuation event reporting requirements, under 40 CFR 63.7923 is 18 months from the effective date of the final amendment, January 10, 2022. This time period will allow Site Remediation facility owners and operators to research equipment and vendors, and to purchase, install, test, and properly operate any necessary equipment by the compliance date.

For equipment leaks, the compliance date for existing affected sources is 1 year from the effective date of the standards, July 10, 2021. This time period is necessary to allow existing affected sources that are currently complying with 40 CFR part 63, subpart TT, adequate time to modify their existing LDAR programs to comply with the revised standards for pumps and valves.

New affected sources must comply with all of the standards and requirements of the amended rule immediately upon the effective date of the final amendments, July 10, 2020, or upon startup, whichever is later.

IV. What is the rationale for our final decisions and amendments for the Site Remediation source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket (Docket ID No. EPA–HQ–OAR–2018–0833).

A. Residual Risk Review for the Site Remediation Source Category

1. What did we propose pursuant to CAA section 112(f) for the Site Remediation source category?

Pursuant to CAA section 112(f), we conducted a residual risk assessment for both affected sources and sources exempt from Site Remediation NESHAP requirements pursuant to 40 CFR 63.7881(b)(2) or (3) (*i.e.,* ''RCRA/CERCLA-exempt sources'') and presented the results of these assessments separately, along with our proposed decisions regarding risk acceptability and ample margin of safety for affected sources, in the September 3, 2019, RTR proposal (84 FR 46138).[2] The residual risk assessments for the Site Remediation source category included assessment of cancer risk, chronic noncancer risk, and acute noncancer risk due to inhalation exposure, as well as multipathway exposure risk and environmental risk. The results of the risk assessment for affected sources are presented briefly below in Table 2 of this preamble and in more detail in the residual risk document, *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking. The results of the risk assessment for the RCRA/CERCLA-exempt sources are presented briefly below in Table 3 of this preamble and in more detail in the residual risk document, *Residual Risk Assessment for Exempt Sources in the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking.

The results of the assessment for affected sources indicated that maximum inhalation cancer risk to the individual most exposed is 1-in-1 million based on actual and allowable emissions (actual emissions were assumed to equal allowable emissions), which is well below the presumptive limit of acceptability (*i.e.,* 100-in-1 million). The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer case per year, or 1 case every 1,000 years. In addition, the maximum chronic noncancer target organ specific hazard index (TOSHI) due to inhalation exposures is less than 1. The evaluation of acute noncancer risk, which was conservative, showed a maximum hazard quotient (HQ) of 1 for all Site Remediation facilities. Based on the results of the screening analyses for human multipathway exposure to, and environmental impacts from HAP known to be persistent and bio-accumulative in the environment (PB–HAP), we also concluded that the risks to the individual most exposed through ingestion is below the level of concern and no ecological benchmarks are exceeded. The facility-wide cancer and noncancer risks were estimated based on the actual emissions from all emissions sources at site remediation facilities, including those not within the Site Remediation source category. For facility-wide emissions, the maximum lifetime individual cancer risk to the individual most exposed is 1,000-in-1 million from ethylene oxide (EtO) and the noncancer TOSHI is 5.

TABLE 2—SITE REMEDIATION INHALATION RISK ASSESSMENT RESULTS FOR AFFECTED SOURCES

Number of facilities [1]	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
	Based on Actual Emissions Level [2 3]				
102	1	400	0.001	0.1	HQ_{REL} = 1 (arsenic compounds).
	Based on Whole Facility Emissions				
	1,000	2,300,000	0.5	5	

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

The results of the assessment for RCRA/CERCLA-exempt sources indicated that maximum inhalation cancer risk to the individual most exposed is 4-in-1 million based on actual emissions and allowable emissions (actual emissions were assumed to equal allowable emissions), which is well below the presumptive limit of acceptability (*i.e.,* 100-in-1 million). The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer cases per year, or 1 case every 1,000 years. In addition, the maximum chronic noncancer TOSHI due to inhalation exposures is less than 1. The evaluation of acute noncancer risk, which was conservative, showed a maximum HQ less than 1 for all of these site remediation facilities. Based on the results of the screening analyses for human multipathway exposure to, and environmental impacts from, PB–HAP, we also concluded that the risks to the individual most exposed through ingestion is below the level of concern and no ecological benchmarks are exceeded. The facility-wide cancer and noncancer risks were estimated based on the actual emissions from all emissions sources at site remediation facilities, including those not within the Site Remediation source category. For facility-wide emissions, maximum lifetime individual cancer risk to the individual most exposed is 2,000-in-1 million from EtO and the noncancer TOSHI is 7.

[2] The risk assessment for exempt sources, while not characterized as a risk acceptability analysis, provides all of the necessary data in order to complete a risk acceptability determination.

TABLE 3—SITE REMEDIATION INHALATION RISK ASSESSMENT RESULTS FOR EXEMPT SOURCES

Number of facilities [1]	Maximum individual cancer risk (in 1 million)	Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
	Based on Actual Emissions Level [2 3]				
118	4	1,100	0.001	0.3	<1
	Based on Whole Facility Emissions				
	2,000	9,000,000	1	7	

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from exempt sources in the source category.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

We weighed all health risk factors for affected sources, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Site Remediation source category are acceptable (84 FR 46157; September 3, 2019).

We then considered whether 40 CFR part 63, subpart GGGGG, provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category.

In our ample margin of safety analysis, we identified three control options that could further reduce HAP emissions from the source category. These control options included requiring a higher emissions reduction efficiency for process vents, requiring more stringent leak definition thresholds for certain equipment as part of the currently required LDAR program, and requiring connector monitoring as part of the currently required LDAR program. For these control options, we proposed that the costs were not reasonable in light of the minimal risk reduction that would be achieved, and these additional HAP emissions controls are not necessary to provide an ample margin of safety to protect public health (84 FR 46158; September 3, 2019).

2. How did the risk review change for the Site Remediation source category?

We have not changed any aspect of the risk assessment since the September 2019 proposal for this source category.

3. What key comments did we receive on the risk review, and what are our responses?

Most of the commenters on the proposed risk review supported our risk acceptability and ample margin of safety determinations for the Site Remediation NESHAP. Some commenters requested that we make changes to our residual risk review approach. However, we evaluated the comments and determined that no changes to our risk assessment methods or conclusions are warranted. A complete summary of these comments and responses are in the comment summary and response document, available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833). The following is a summary of key comments we received regarding the risk review and our responses to those comments.

Comment: Several commenters agreed with the EPA's finding that risks from the source category are acceptable, additional emissions reductions are not needed to provide an ample margin of safety, and it is not necessary to set more stringent standards to prevent an adverse environmental effect. One of these commenters added that the risk assessment results show very low risk from the source category. However, another of these commenters asserted that even with the low risk shown, the EPA's risk analysis overstates risk due to the methodology the agency uses. This commenter said that the EPA's model plant approach combined with data gap filling for most of the modeled facilities results in a significant overestimation of HAP emissions. The commenter also said that the EPA's conservative assumption that the population breathes outdoor air at a fixed residential location for 70 years is an unrealistic assumption that needs to be modified. The commenter pointed out that the California's Office of Environmental Health Hazard Assessment (OEHHA) has revised their methodology for air toxics assessment to use a 30-year residential exposure to identify the maximum exposed individual for cancer risk assessment. Another of the commenters remarked that the EPA should not have used the 70-year exposure assumption for this source category, since Site Remediations typically do not last more than 20 years. The commenter stated that the EPA should have developed and used a factor representative of the typical life of a remediation activity, which would have likely shown even lower risk for the source category. One commenter also asserted that the acute multiplier of 10 used to estimate hourly emissions from annual emissions is not based on Site Remediation data and is a standard EPA multiplier that is overly conservative.

Response: The EPA relied on our standardized factor of 70 years for our exposure factor.[3] In this way the EPA has taken a health-protective, or conservative, approach in estimating risks and has found that the risks are acceptable and that the existing standards provide an ample margin of safety to protect public health. Therefore, no additional regulation was proposed based on risk for the category. For this reason, there is no utility in refining the inputs to the risk assessment to further lower the risk estimates.

Comment: One commenter stated that the EPA only assessed EtO emissions and risks in the facility-wide risk part of

[3] U.S. EPA. *Exposure Factors Handbook,* 2011 Edition (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

its analysis, where the EPA finds risks of 1,000to 2,000-in-1 million. The commenter stated that the EPA failed to justify ignoring EtO emissions and resulting health risks from the Site Remediation source category itself. The commenter asserted that the EPA ignored these emissions because the six facilities it had data from did not show EtO emissions, and the EPA believes EtO is unlikely to be emitted during a Site Remediation due to its rapid decomposition. In contrast, the commenter submitted that the monograph on EtO published by the International Agency for Research on Cancer (IARC) suggests EtO has an atmospheric half-life of 211 days. The commenter noted that the IARC monograph goes on to state that data suggest neither rain nor absorption into aqueous aerosols remove EtO from the atmosphere. The commenter stated that the EPA has not provided sound rationale for ignoring evidence of EtO emissions for this source category, and the EPA statements on EtO's rapid decomposition in the environment are not supported by credible scientific findings. The commenter claimed that the EPA is relying on an American Chemistry Council (ACC) study that is not available to the public in the online docket, undermining the Agency's findings and violating the CAA's public notice-and-comment requirements. The commenter explained that the referenced ACC study relies upon a conceptual model that applied various data parameters to determine potential adverse ecological risks and does not provide information with respect to human health risks. The commenter contended that the EPA may not rely on its underlying memorandum and this cited study as the basis to not assess health risk from EtO emissions from Site Remediations. The commenter said the EPA has not shown, based on facts in the record, that there are no emissions and no health risks from this chemical. The commenter also claimed that the EPA's proposal that these emissions are unlikely to be emitted from the source category does not make sense if EtO is emitted from other operations at the sites. The commenter asserted that by refusing to assess the EtO-based risk for this source category, the EPA has failed to satisfy the CAA's requirement to assess and reduce such risk.

Response: The data submitted by the commenter does not give the Agency reason to change our position that EtO is unlikely to be a site remediation pollutant. The half-life of a pollutant in the air is irrelevant to whether EtO is a pollutant likely to be encountered in Site Remediation material. The EPA stands by our assertion that EtO is highly unlikely to persist in remediation material that would be subject to Site Remediation NESHAP, (*e.g.,* soil, water, sediment). This assertion is further evidenced by the lack of any reported EtO emissions in the EPA's National Emissions Inventory (NEI) from site remediation operations. The commenter provided no data to contradict this assertion.

The EPA further disagrees that the sources cited by the commenter do not provide sound rationale for removing EtO as a site remediation pollutant. The EPA included two articles from peer-reviewed scientific journals in the docket for the proposed rule to substantiate its conclusion regarding EtO.[4] The properties of EtO cited in the proposal preamble were taken from these articles. In one article, the fate of EtO in the environment was estimated using the EPI (Estimation Program Interface) Suite™ of modeling programs.[5] [6] The individual estimation programs and/or their underlying predictive methods and equations used within EPI Suite™ have been described in numerous peer-reviewed technical journals. In addition, EPI Suite™ has undergone detailed review by a panel of the EPA's independent Science Advisory Board (SAB), and its September 2007 report can be downloaded. The EPA disagrees that the ACC study cited by the commenter is not in the docket. While the document is not available for direct download from the docket due to its copyright protection, it can be viewed in the EPA Docket Center and is also available from other sources in the public domain.

Comment: One commenter asserted that the EPA's benchmarks for the level of health risk that is considered acceptable are an outdated policy that does not reflect subsequent scientific breakthroughs and public perceptions of acceptable environmental health risks. The commenter disagreed with the EPA's policy that a cancer risk of 100-in-1 million is presumed to be either safe or acceptable, that for acute risks an HQ less than 1 is always acceptable, and that an HQ greater than 1 can be deemed acceptable without reasoned explanation. The commenter stated that the EPA's acceptability benchmarks are based on a 1988 study of people's tolerance for various types of health risk, known as the Survey of Societal Risk.[7] The commenter remarked that the EPA has failed to revisit or update this policy over the decades, even though scientists have made breakthroughs on early-life exposure and children's vulnerability; biomonitoring and other data on adult body burdens of chemicals; the vulnerability of overburdened communities, including socioeconomic disparities; and ways to analyze and control the impacts of pollutants on human health. The commenter listed 17 "landmark" actions from the EPA, other regulatory agencies, and scientific bodies relating to environmental health effects and human susceptibility that have occurred since 1990, which the commenter states make the current EPA policy outdated. The commenter asserted that the EPA acceptability benchmark policy needs to be reformed in the face of increasing evidence that challenges the assumption of a safe or acceptable level of HAP exposure.

Response: The EPA considers this comment outside the scope of the risk review for the Site Remediation source category. As the commenter notes, this level of acceptable risk was determined based on the EPA's prior analysis of general perception of relative risk (see Benzene NESHAP, 54 FR 38046). The task of re-determining the public's general concern for the level of acceptable risk falls outside the scope of an individual risk review.

However, our discussion in the proposal preamble addresses the commenter's concern (See 84 FR 46143; September 3, 2019)—though providing this explanation is not intended to reopen our approach. The scope of the EPA's risk analysis is consistent with the EPA's response to comments on our policy under the Benzene NESHAP, where the EPA explained that "[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR [maximum individual risk] figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the

[4] See Docket ID Item Nos. EPA–HQ–OAR–2018–0833–0021 and EPA–HQ–OAR–2018–0833–0022.

[5] Staples, C.A., & Gulledge, W. (2006). An environmental fate, exposure and risk assessment of ethylene oxide from diffuse emissions. *Chemosphere, 65*(4), 691–698. doi: *10.1016/j.chemosphere.2006.01.047.*

[6] EPI Suite™ website: *https://www.epa.gov/tsca-screening-tools/epi-suitetm-estimation-program-interface.*

[7] Survey of Risks, Benzene Rule Legacy Docket ID No. OAQPS 79–3, Part I, Docket Item X–B–1 (cited at National Emission Standards for Hazardous Air Pollutants; Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants, 53 FR 28496, 28512/3–13/3 (July 28, 1988)).

general public. These factors can then be weighed in each individual case. This approach complies with the Vinyl Chloride mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will 'protect the public health.' " (54 FR at 38057; September 14, 1989.)

The EPA subsequently adopted this approach in its residual risk determinations and the Court upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

Comment: One commenter claimed that the EPA did not assess whether the health risk and emissions reductions of the rule provide an ample margin of safety. The commenter stated that the EPA only considered the cost and feasibility of available control measures from its technology review, did not consider facility-wide risks, and ignored exempt sources in its ample margin of safety decision. The commenter cited the Court decision, *Sierra Club* v. *EPA,* 895 F.3d 1 (D.C. Cir. 2018) to support their comment. Additionally, the commenter said the EPA did not provide the underlying data it used to reach its facility-wide risk determinations.

Response: The EPA disagrees with the comment. The risk assessment demonstrated that health risks due to air emissions from site remediation sources are acceptable and after considering available control options and all available risk information, the EPA concluded that the current standards provide an ample margin of safety to protect public health. The commenter misconstrues the analysis at pages 46157–58 of the proposal. The EPA had already made a determination, consistent with the methodology of the Benzene NESHAP, that the risk posed by emissions from the affected sources in the Site Remediation source category is acceptable. See 84 FR 46157 (September 3, 2019), section C.1 "risk acceptability." The EPA proceeds to look at potential measures that could further reduce risk in the ample margin of safety determination, and in that context, has consistently historically considered multiple factors, including control technology cost, cost effectiveness, feasibility, and the magnitude of risk and potential risk reduction, as well as uncertainties. See *NRDC* v. *EPA,* 529 F.3d 1077, 1080–83 (D.C. Cir. 2008) (upholding as reasonable the EPA's interpretation that CAA section 112(f)(2)(A) does not mandate establishing emission standards to reduce cancer risks below 1-in-1 million and recognizing that CAA section 112(f)(2) incorporates the EPA's approach in the Benzene NESHAP).

The Court decision cited by the commenter,[8] *Sierra Club* v. *EPA,* 895 F.3d 1 (D.C. Cir. 2018), addressed the basis for setting a health-based emission limit based on a health threshold in lieu of a technology-based standard for hydrochloric acid (HCl) under section 112(d)(4) of the CAA, not making a determination under section 112(f)(2) of the CAA.

The EPA did not contemplate an ample margin of safety analysis for RCRA/CERCLA-exempt sources because they are not subject to the emissions standards in the rule. The ample margin of safety portion of a CAA section 112(f) analysis necessarily entails an evaluation of control options. For the EPA to undertake an ample margin of safety analysis for the exempt sources, a final determination would first be needed to eliminate the exemption and evaluate control options. We have not yet concluded how these sources should be regulated under the Site Remediation NESHAP. While we requested comment on issues related to eliminating the exemption, we are not acting on the exemption in this RTR process. As noted in our separate request for comment on the exempt status of such facilities in the RTR proposal, the EPA continues to analyze the effect of removing the exemption in terms of designing appropriate regulatory provisions should the exemption be removed.

The EPA considered facility-wide risks and determined that Site Remediation emissions are not driving those risks. The risk at two facilities where facility-wide risk was greater than 100-in-1 million was driven by EtO, which, as explained at proposal, to the EPA's knowledge, is not emitted from Site Remediation activities. Also, as noted in the proposal, the EPA is separately addressing EtO emissions in response to the results of the latest National Air Toxics Assessment released in August 2018, which identified the chemical as a potential concern in several areas across the country.

The EPA disagrees that we did not provide the data for our whole-facility analysis. The data files were placed in the docket for public review upon publication (see Docket ID Item No. EPA–HQ–OAR–2018–0833–0037).

4. What is the rationale for our final approach and final decisions for the risk review?

As explained in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand" (see 54 FR 38045; September 14, 1989). We weigh all health risk measures and factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum noncancer TOSHI, the maximum acute noncancer HQ, the extent and distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health "in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision." [9] The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health or determine that the standards being reviewed provide an ample margin of safety without any revisions. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the Site Remediation source category are acceptable, and the current standards provide an ample margin of safety to

[8] See the comment letter in Docket ID Item No.EPA–HQ–2018–0833–0069, p 45.

[9] 54 FR 38045, September 14, 1989.

protect public health and prevent an adverse environmental effect. Therefore, we are not revising 40 CFR part 63, subpart GGGGG to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).[10]

B. Technology Review for the Site Remediation Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Site Remediation source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the Site Remediation source category. At proposal, we identified developments in practices, processes, or control technologies for process vents and equipment leaks.

For process vents, one potential control technology was identified at proposal, use of a regenerative thermal oxidizer, which could increase the emissions capture and control efficiency from 95 percent to 98 percent for those process vents that are currently controlled with a carbon adsorption system or other device achieving 95-percent control. We estimated the HAP emissions reduction beyond the current control requirements could range between 0.09 and 0.18 tpy for the source category, and the estimated costs would be $1 million to $2 million per ton of HAP emission reduction.

For equipment leaks, we identified the more stringent leak definitions of 40 CFR part 63, subpart UU over those of 40 CFR part 63, subpart TT as a development in practices, processes, or control technologies at proposal. Two options were identified: Option 1—requiring the use of the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps; Option 2—requiring the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps and also requiring connector monitoring under 40 CFR part 63, subpart UU. For Option 1, we estimated an additional HAP emission reduction of up to 4.7 tpy and estimated the costs would be $2,000 per ton of HAP emission reduction. For Option 2, we estimated the HAP emission reduction incremental to Option 1 would be approximately 5 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be $35,000 per ton of HAP emission reduction.

Based on the costs and the emission reductions that would be achieved with the identified developments, we proposed to revise the MACT standard pursuant to CAA section 112(d)(6) to require facilities to use the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps, without the subpart UU requirements for connectors in gas/vapor service and in light liquid service. We proposed that it was not necessary to revise the MACT standards pursuant to CAA section 112(d)(6) to require 98-percent control for process vents, based on the use of a regenerative thermal oxidizer. More information concerning our technology review can be found in the memorandum titled *CAA section 112(d)(6) Technology Review for the Site Remediation Source Category,* which is available in the docket for this action and in the preamble to the proposed rule (84 FR 46160 and 46161; September 3, 2019).

2. How did the technology review change for the Site Remediation source category?

The technology review has not changed from proposal to this final action. As explained below, the comments received were generally supportive of the revisions to the equipment leak requirements to require the use of the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps, to not require connector monitoring for equipment leaks, and to not require changes to the NESHAP for process vents.

3. What key comments did we receive on the technology review, and what are our responses?

Most of the commenters on the proposed technology review supported our proposed revised standards for equipment leaks and our determination that revised standards for process vents are not necessary for the Site Remediation NESHAP. One commenter requested that we consider additional elements in our technology review, including incorporating exempt sources in our analysis of the cost effectiveness of connector monitoring, considering leakless equipment in our review of the equipment leak standards, and considering a different threshold for cost effectiveness. A complete summary of these and other comments and responses are in the comment summary and response document, available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833). The following is a summary of key comments we received regarding the technology review and our responses to those comments.

Comment: One commenter asserted that the EPA must evaluate developments in practices, processes, and control technologies to reduce inorganic HAP and HAP metal emissions and must revise its existing standards by setting limits that reflect the use of these practices, processes, and control technologies. As emissions standards in the Site Remediation NESHAP currently do not apply to these HAP, the commenter noted that the EPA did not include these HAP in its technology review. The commenter stated that the EPA must set emission standards for each HAP that a source category emits and then must also determine whether developments in pollution control make it "necessary" to revise the emission standards.

Response: We acknowledge that the Site Remediation NESHAP does not contain emissions standards for metal HAP and inorganic HAP. However, the EPA's duty under CAA section 112(d)(6) is to review the standards promulgated under CAA section 112(d)(2) and to evaluate any developments in practices, processes, and control technologies to determine whether it is necessary to revise the existing standards.

The EPA's decision to consider regulation of these pollutants in this rulemaking is not governed by or mandated by CAA section 112(d)(6). That provision requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. We do not agree with the commenter's assertion that the EPA must establish new standards for unregulated emission points or pollutants as part of a technology review of the existing standards. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary, taking into account developments in practices, processes, and control technologies. Nothing in CAA section 112(d)(6) directs the Agency to develop new emission standards to address HAP or emission points for which standards were not previously promulgated as part of or in conjunction with the mandatory 8-year technology review.

[10] The Court upheld this approach to CAA section 112(f)(2) in *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008): "If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking."

When the EPA establishes standards for previously unregulated emissions, we would establish the standards under one of the provisions that govern initial standard setting—CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA section 112(d)(4) or CAA section 112(h). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

While we did not consider establishing standards for these HAP under CAA section 112(d)(6), we did investigate these HAP to determine whether standards should be established under CAA section 112(d)(2) or (3). In our review of the data for affected sources, we found that metal HAP are not emitted. Therefore, standards are not required for these pollutants (see 84 FR 46161; September 3, 2019) and our discussion of this issue in section D.1.a of this document.) This analysis satisfies the investigation into these pollutants that the EPA said it intended to undertake for these HAP in response to Sierra Club's petition for reconsideration of the initial NESHAP rulemaking.[11] For inorganic HAP, based on the EPA's analysis of the available emissions data for affected sources, only one Site Remediation operation emitted any inorganic HAP. The one inorganic HAP emitted by this Site Remediation is asbestos, and asbestos emissions are already regulated by another NESHAP (as discussed in more detail below). Therefore, we determined it was not necessary to evaluate these emissions further or to establish standards under CAA sections 112(d)(2) or (3) for these emissions.

Comment: One commenter stated that the EPA should do more than it proposed for regulating equipment leaks because there have been additional developments in equipment, such as leakless or low-emission valves and zero-emissions technologies, and the commenter asserts that these technologies should be required. The commenter also remarked that the EPA's rationale for not requiring connector monitoring is flawed, in that it did not account for emissions reductions from the facilities exempt from the rule under the RCRA/CERCLA exemption. The commenter opined that since these facilities have not had to comply with the existing Site Remediation standards, it is likely there would be greater emissions reductions from these facilities, which would result in an improvement in the cost effectiveness of the measure. The commenter also mentioned that considering cost on a per ton basis for all emitted HAP does not make sense when the pollutants have vastly varying toxicities. The commenter further stated that the EPA does not explain why it believes an incremental cost of $35,000 per ton of HAP reduced is an unreasonable cost.

Response: First, we disagree that leakless valves and low-emissions technologies should have been included in the technology review. These and similar types of equipment were available and accounted for when the original NESHAP was promulgated, and, therefore, they are not "developments" in technology.[12] The commenter has not identified "developments" in relation to this technology, such as a significant decrease in cost or a change in applicability to the Site Remediation source category. Next, in determining the impacts from any control options, we include only the emissions and reductions that would actually be expected to occur as a result of the implementation of that control option. In this case, since some facilities are exempt from emissions control requirements, the impacts are based on the emissions reductions and costs of implementation at the facilities that would be required to comply with the regulations. If the currently exempt facilities become subject to emissions control requirements in the future, we will reassess the impacts of potential control options at that time.

The EPA disagrees that, for this action, an analysis that relies on a cost-per-ton basis "does not make sense" when different HAP have different toxicities. We note that when assessing the cost effectiveness of more stringent standards under consideration, we have discretion to express emission reductions that would result from such standards in any reasonable format, such as costs per ton of emissions reduced. In this case, as explained at proposal, the risk for the Site Remediation source category was low, using both the quantity and toxicity of emitted pollutants to arrive at this conclusion. The EPA also adds that a cost-per-ton basis may not be the only economic consideration when deliberating on whether to adopt controls. The EPA also looks, where appropriate, at the broader economic impact a given control technique may have on the category of sources when deciding whether to adopt a given standard.

With respect to the role of cost in our decisions under the technology review, we note that courts have not required the EPA to demonstrate that a technology is "cost-prohibitive" in order not to require adopting a new technology under CAA section 112(d)(6); a simple finding that a control is not cost effective is enough. See *Association of Battery Recyclers, et al.* v. *EPA, et al.,* 716 F.3d 667, 673–74 (DC Cir. 2015) (approving the EPA's consideration of cost as a factor in its section 7412(d)(6) decision-making and EPA's reliance on cost effectiveness as a factor in its standard-setting). The EPA declined to include connectors in our decision to lower the definition of the leak threshold, based on the fact that, relative to a limited impact on emissions, the addition of connectors would have increased the cost of the LDAR program by more than an order of magnitude from the option chosen (*i.e.,* lower leak thresholds for pumps and valves).

4. What is the rationale for our final approach for the technology review?

Based on our analysis for equipment leaks, we have determined the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We do not believe the costs of Option 2 are reasonable, given the level of HAP emissions reduction Option 2 would achieve relative to a much higher incremental cost- per-ton above Option 1. Therefore, as a result of the technology review, pursuant to CAA section 112(d)(6), we are finalizing our proposed determination to revise the Site Remediation NESHAP to require existing and new affected sources to comply with the 40 CFR part 63, subpart UU leak detection thresholds for pumps and valves rather than leak thresholds of 40 CFR part 63, subpart TT, for those components.

For the reasons discussed above and in the preamble to the proposed rule, we have determined that it is not necessary, pursuant to CAA section 112(d)(6), to revise the Site Remediation NESHAP to require additional HAP emission controls for process vents or any other equipment or processes at Site Remediation facilities.

[11] *See* Letter from Janet McCabe to James Pew (March 25, 2015) (Docket ID Item No. EPA–HQ–OAR–2018–0833–0012) (granting reconsideration of 68 FR 58172 (October 8, 2003)).

[12] U.S. EPA. *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Site Remediation (40 CFR part 63, subpart GGGGG)—Background Information for Promulgated Standards.* Office of Air Quality Planning and Standards. Research Triangle Park, NC. August 2003. pp. 44–45.

C. CAA Sections 112(d)(2) and (3) Amendments

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the Site Remediation source category?

We proposed to add a work practice standard pursuant to CAA section 112(h)(2)(B), in conjunction with CAA sections 112(d)(2) and (3), for PRDs. PRDs are valves, rupture disks, or other equipment designed to remain closed during normal operation but that "actuate" (*e.g.,* the valve seat opens or a rupture disk ruptures) in the event of an overpressure in the system caused by operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that results in immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage. The current Site Remediation NESHAP follows the EPA's previous practice of exempting SSM events from otherwise applicable emission standards. Consequently, with emissions releases from a PRD release actuation event treated as a type of malfunction, the Site Remediation NESHAP did not restrict emissions releases to the atmosphere from a PRD actuation event (*i.e.,* PRD releases were exempt from the otherwise applicable emission standards). In *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), the Court determined SSM exemptions in CAA section 112 standards violate the CAA.

To ensure a standard continuously applies during malfunctions that result in emissions from a PRD actuation event, we proposed work practices and other provisions for PRDs and bypass lines on closed vent systems. We explained that a work practice standard is warranted under CAA section 112(h) because the application of measurement technology to this class of sources is not practicable due to technological and economic limitations. See 84 FR 46153 (September 3, 2019). Modeling the work practice standard on the Petroleum Refinery Sector RTR (80 FR 75178; December 1, 2015), we proposed to add work practice requirements that consist of conducting an analysis of the cause of a PRD actuation event and the implementation of corrective measures for PRDs that emit directly to the atmosphere. In addition, we proposed criteria for what constitutes a deviation from the work practice requirements. For PRDs that vent emissions from actuation events directly to the atmosphere, we proposed it would be a deviation of the work practice standard for a single PRD to have two releases within a 3-year period due to the same cause; for a single PRD to have three releases within a 3-year period for any reason; and for any PRD to have a release for which the cause was determined to be operator error or poor maintenance. We also proposed that "force majeure" events, which we proposed to define as events resulting from natural disasters, acts of war or terrorism, or external power curtailment beyond the facility's control (as demonstrated to the satisfaction of the EPA Administrator), would not be included when counting the number of releases. We proposed that certain PRDs would not be subject to the work practice requirements due to their low potential to emit substantial quantities of HAP. These PRDs included the following: (1) PRDs designed and operated to route all pressure releases through a closed vent system to a drain system, fuel gas system, process or control device; (2) PRDs in heavy liquid service; (3) PRDs that are designed solely to release due to liquid thermal expansion; and (4) pilot-operated and balanced bellows PRDs if the primary release valve associated with the PRD is vented through a control system.

To ensure compliance with these provisions, we also proposed that facilities subject to the Site Remediation NESHAP monitor PRDs in remediation material service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each actuation event and notifying operators immediately that a pressure release is occurring. We further proposed to require owners or operators to keep records and report any actuation event and the amount of HAP released to the atmosphere with the next periodic report. In addition, to add clarity to these provisions, we proposed to add definitions for "bypass," "force majeure event," "pressure release," and "pressure relief device or valve" to 40 CFR part 63, subpart GGGGG. We also proposed to remove the definition of "safety device" and the provisions related to safety devices from 40 CFR part 63, subpart GGGGG, which would overlap with and be redundant of parts of the proposed definition of "pressure relief device or valve" and the provisions related to these devices.

For purposes of estimating the costs of the proposed requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would already have monitoring systems capable of identifying and recording the time and duration of each pressure release.

In the proposed rule, we removed the exemption from emissions standards for periods of SSM in accordance with a decision of the Court, *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010). This decision stated that the EPA must provide standards that are in place at all times, even during periods of SSM. The EPA has interpreted this to include provisions exempting sources from otherwise applicable standards during maintenance periods. Thus, we also proposed to remove the provision at 40 CFR 63.7925(b)(1) that allowed a control device to be bypassed for up to 240 hours per year for the performance of planned routine maintenance of the closed vent system or control device (*i.e.,* 240-hour routine maintenance exemption). As a result, the emissions limits, including those for tanks, in the proposed revised Site Remediation NESHAP would apply at all times.

2. How did the proposed amendments pursuant to CAA sections 112(d)(2) and (3) change for the Site Remediation source category?

We have made two revisions to the proposed work practice and associated monitoring requirements and also revised the estimate of costs associated with PRD monitoring. The revisions to the proposed work practice and monitoring requirements include adding PRDs to the list of Site Remediation equipment in 40 CFR 63.7882 to help clarify when a PRD is subject to equipment leak requirements and when it is subject to the PRD actuation event work practice requirements. We are also revising the proposed PRD provisions to exclude PRDs on "containers" (as defined at 40 CFR 63.7957) from the PRD work practice standards and monitoring requirements. Additionally, we have revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

3. What key comments did we receive on the proposed amendments pursuant to CAA sections 112(d)(2) and (3), and what are our responses?

Comment: Several commenters recommended that the EPA amend 40 CFR 63.7923(d) to include an exemption for PRDs on mobile equipment, similar to the exemption in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(vi). One of these commenters extended this recommendation to portable containers, similar to the exemption in the Off-Site Waste and Recovery Operations (OSWRO) NESHAP. This commenter is concerned that the EPA has not

evaluated the HAP emissions that may be associated with PRDs on portable equipment, noting that containers are generally already subject to separate MACT requirements which would address their emissions. The commenter also remarked that since facilities generally do not own tank trucks and other transport vehicles, and they are not dedicated to the facility, it would be impractical and overly broad to impose monitoring requirements on them. Further, the commenter is concerned that potential monitoring requirements would be technically infeasible to implement on containers due to the wide range of containers and their transitory nature. Specifically, the commenter noted that containers can vary drastically in size from site to site and cover a variety of cylinders, drums, tote-tanks, cargo tanks, isotainers, railcars, over-the-road tanker vehicles, etc. The commenter also remarked that the time they are kept on site depends highly on facility-specific operational activities and can range anywhere from a few days to a few weeks or months. Combined, the commenter said these factors make it incredibly difficult, if not impossible, to appropriately design and effectively implement a continuous monitoring system for each container's PRD.

One commenter also recommended that the EPA include an exemption for PRDs that do not have the potential to emit 72 pounds (lbs)/day or more of volatile organic compounds (VOC) based on the valve diameter, the set release pressure, and the equipment contents, similar to the exemption in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(v). The commenter stated that the EPA's logic for that exemption, which is that it was consistent with the treatment of miscellaneous process vents and consistent with the two California rules (Bay Area and South Coast) that served as the MACT floor for the Petroleum Refineries NESHAP, also applies to this rule.

Response: The EPA agrees that an exception would be appropriate for moveable equipment, such as trucks with containers, or tanks, train cars, and similar moveable equipment that may be brought to a Site Remediation for short durations. The EPA agrees that such equipment may not be under the control of the affected facility and/or that altering such equipment to meet the monitoring requirements for PRDs is impractical. The EPA has, therefore, added an exception for "containers," as that term is defined at 40 CFR 63.7957, which encompasses movable equipment such as trucks, train cars, or barges. The EPA has followed the model of the OSWRO NESHAP in this regard. See 83 FR 3986 (January 29, 2018).

The EPA disagrees that it is appropriate to exempt PRDs that do not have the potential to emit 72 lbs./day or more of VOC based on the valve diameter from the PRD work practice. The commenter suggests the provisions should be adopted because the exemption is also found in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(v). The exemption to which the commenter refers is refinery-specific and applies to "Group 1 process vents," as defined in the Petroleum Refineries NESHAP.[13] The commenter did not provide information as to why an exemption for Refinery Group 1 process vents should be applied to remediation material management units (RMMUs). RMMUs are subject to Site Remediation NESHAP standards according to the criteria in 40 CFR 63.7881(c)(1), 40 CFR 63.7882(a)(2) and 40 CFR 63.7886(d). The differences in these emission points is reflected in the definition of the Refinery Group 1 process vent in contrast to the applicability criteria for RMMUs. The EPA does not find these two sets of units sufficiently similar to warrant applying this provision to RMMUs, given the wide variety of RMMUs that may be found subject to the Site Remediation NESHAP. The commenter also provided no context as to why 72 lbs./day is appropriate, given the different emission potential that determines affected facility status of the units on which the PRDs are found in Site Remediation. The 72 lbs./day provision for Petroleum Refineries NESHAP was set based on CAA section 112(d)(2) (*i.e.,* a MACT floor for petroleum refineries). The EPA does not have, and the commenter did not provide, data to support either a 72 lbs./day exemption or other value to apply as an exemption threshold for the Site Remediation source category. However, certain applicability criteria that the EPA finds appropriate to apply in the context of PRD activations in the site remediation context are identified at 40 CFR 63.7923(d).

Comment: One commenter expressed opposition to what the commenter referred to as "three exemptions" included in the proposed work practice standards for PRDs, asserting that the work practice standards must apply at all times. According to the commenter, a provision that allows sources to exceed the emissions standards two or three times every 3 years essentially allows non-continuous compliance with the CAA, which is inconsistent with the Court precedent. Regarding force majeure events, the commenter stated that this provision is an exemption that simply provides new semantics for the rejected malfunction exemption and is equally unlawful. The commenter further explains that the concept of force majeure is from contracts law and does not fit with compliance with federal law. The commenter asserts that injecting contractual principles or negotiating regulations with a regulated party runs directly counter to the statutory test in which compliance is non-negotiable. According to the commenter, the EPA does not have the discretion to promulgate an exemption that allows EPA to decide what is a violation, or not, at a future time, as the Court has the authority to decide whether a violation has occurred warranting a penalty. This exemption, the commenter claims, places the burden on the government or citizen enforcer to prove both that excess emissions have occurred and that they did not occur during a force majeure event. The commenter also states that the exemption for PRDs with low potential to emit is unlawful because the CAA directs the EPA to establish limits that apply on a continuous basis for each HAP a source emits, regardless of the amount emitted. The commenter adds that it should be easy for PRDs to comply with the limits if they truly have low emissions.

Response: The EPA disagrees with the commenter that the proposed work practice is not a standard applicable to the affected source at all times. Under CAA section 112(h), work practices are a form of emissions standard applicable to affected units. Actuation events from PRDs that vent to the atmosphere are irregular in time, duration, amount, cause, and effect. Attempts to capture such emissions may be potentially dangerous to workers, the public, and the environment. The EPA's work practice standards require a series of preventive measures[14] and the use of diagnostic tools to prevent recurrence of such events, coupled with a clearly defined basis for enforcement action when there is a failure to prevent actuation event recurrence under the

[13] Group 1 miscellaneous process vent means a miscellaneous process vent for which the total organic HAP concentration is greater than or equal to 20 parts per million by volume, and the total VOC emissions are greater than or equal to 33 kilograms per day for existing sources and 6.8 kilograms per day for new sources at the outlet of the final recovery device (if any) and prior to any control device and prior to discharge to the atmosphere.

[14] See 84 FR 46153 (September 3, 2019) for a discussion of requirements under 40 CFR part 68, Chemical Accident Prevention Provisions for PRDs.

defined circumstances. This work practice standard represents the practice employed by the best performing sources and is the MACT floor. The MACT floor is not merely after-the-fact recordkeeping requirements to document PRD actuation events without penalty. The PRDs at affected facilities are subject to continuous monitoring, and, in addition to other potential bases for finding a violation as described in 40 CFR 63.7923(f), each PRD actuation is a violation if the cause is poor maintenance or operator error.

The EPA disagrees with the comments regarding force majeure events. Force majeure events, which result in pressure release actuation events, must be accounted for under 40 CFR 63.7923(c). The definition of force majeure narrows the scope of such events to natural disasters; acts of war or terrorism; loss of a utility external to the Site Remediation unit (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the Site Remediation affected source that impacts the Site Remediation affected source's ability to operate. Therefore, a force majeure event would never be due to operator error or poor maintenance (see 40 CFR 63.7923(f)(1)) and must be absolutely beyond the power or ability of the source to prevent. We believe that the narrow scope of force majeure is such that a second event, from a single pressure relief device in a 3-year period would be highly unlikely to be due to the same force majeure event for the same equipment. (See 40 CFR 63.7923(f)(2)). Similarly, we believe that it is highly unlikely that in a 3-year period, three force majeure events of any type would occur for the same equipment. Finally, the source must satisfy the Administrator that the event was beyond the control of the owner or operator, because the decision to accept the claim of force majeure is solely within the discretion of the Administrator. Thus, the force majeure provisions are an intrinsic part of the work practice standard and are not as the commenter maintains an exemption from that standard.

The EPA disagrees with the comments regarding the exemption for certain types of PRDs identified in 40 CFR 63.7923(e). We modeled the applicability of the PRD provisions after the Petroleum Refinery rule, 40 CFR part 63, subpart CC. That "beyond-the-floor" analysis determined that it was not cost effective to include control of these PRDs as part of the work practice standard for PRDs, and we do not have information to conclude that this analysis would be any different for Site Remediation sources. However, these PRDs may be regulated under other provisions of the MACT. We note that, if the PRD is on any equipment subject to the equipment leaks requirements at 40 CFR 63.7920–7922, then the PRD is also subject to those same requirements, and owners and operators are still required to monitor the PRD after the release to verify the device is operating with an instrument reading of less than 500 ppm. Such PRDs are subject to repair requirements if a leak is found.

Comment: Several commenters requested clarification that the PRDs covered by the work practices are only those associated with the Site Remediation equipment leaks affected sources (*i.e.,* only PRDs that are in service for 300 or more hours per year and that contain or contact remediation material having a concentration of total HAP listed in Table 1 equal to or greater than 10 percent by weight).

Response: The EPA did not intend for the PRD actuation work practice requirements to only apply to PRDs in contact with remediation material with HAP content (for those HAPs listed in Table 1 to subpart GGGGG) equal to or greater than 10 percent by weight and that are in service for 300 hours per year or more. The PRD work practice also applies to PRDs protecting any affected units subject to this subpart (with the exception of containers), including RMMUs under 40 CFR 63.7882(a)(2). Thus, PRDs are subject to the PRD work practice if they are protecting process vents, tanks, surface impoundments, separators, transfer systems, or closed-vent systems and control devices—regardless of whether such units meet the 40 CFR 63.7882(a)(3) thresholds for equipment leak requirements. Note that PRDs are not subject to the work practice standard if they are on containers as defined at 40 CFR 63.7957, which are subject to the requirements of 40 CFR 63.7900–7903. The PRD standards must work in conjunction with the emission limits for all such affected units to ensure that a standard applies at all times, including during malfunction periods. The exemption suggested by the commenter would leave PRD actuation events from certain affected units subject to no standards during malfunctions. Certain RMMUs (40 CFR 63.7886) may be exempt from control requirements based on the criteria in 40 CFR 63.7886(d). A PRD protecting equipment found to be exempt under 40 CFR 63.7886(d) would likewise be exempt from PRD standards, because the unit the PRD is protecting is not subject to control requirements.

The commenter is correct that a PRD as a member of the set of equipment subject to 40 CFR 63.7882(a)(3) would not be subject to LDAR requirements for "equipment leaks" if the PRD "at rest" (meaning not in actuation) meets either of the criteria in 40 CFR 63.7882(a)(3), that is, either: (1) The HAP content of the remediation material is less than 10 percent by weight; or (2) the equipment in question is used less than 300 hours per year. The applicable requirements to ensure a PRD has been repaired or re-sets properly after actuation are found in 40 CFR 63.7923(a)(1) and (2). The corresponding recordkeeping for such PRDs that are exempt from LDAR while at rest but subject to PRD work practices in activation are found at 40 CFR 63.7950(b)(11).

Comment: Several commenters remarked that the EPA should have provided a burden estimate for certain requirements. One commenter pointed out that the EPA did not include a burden estimate for implementation and reporting for the new PRD work practice requirements and submittal of the PRD Notice of Compliance Status. Several commenters stated that the EPA has assumed that sources have a system already in place that is capable of identifying and recording the time and duration of each pressure release from a PRD and of notifying operators that a pressure release is occurring, and remarked that sources actually often do not have systems like this in place unless they are required by regulation; therefore, there will be a cost to implement this proposed requirement. One commenter noted that one company has five PRDs that vent to the atmosphere potentially subject to the proposed requirements, and that none of these currently have monitors in place. The commenter also said that some facilities with PRD monitors are not set up to communicate with the control room or are not capable of determining the duration of a release. One commenter estimated that the cost to install a new monitoring system will be approximately $15,000 per PRD.

One commenter expressed that the EPA has not included time for facilities to develop procedures to estimate and report the amount of excess emissions when a deviation from the new requirements of 40 CFR 63.7951(b) occurs or to develop procedures for the new deviation recordkeeping requirements at 40 CFR 63.7952.

Response: The EPA disagrees that it failed to provide an estimate at proposal as to the cost and burdens associated with the work practice standard. However, we have adjusted that estimate as discussed below, and we

have appropriately estimated the costs and burdens associated with implementation and reporting for the PRD work practice standard. At proposal, we assumed that any facility subject to the proposed PRD requirements would likely experience one PRD actuation event every 3 years, which would require an analysis of the event's cause. The EPA estimated an additional cost to implement the analysis of PRD actuation events for affected facilities that was reflected in the burden estimate at proposal. Upon consideration of the comment regarding the PRD Notification of Compliance Status, we have made a description of the PRD monitoring system part of the semiannual compliance report. It may have been unclear at proposal whether this one-time notification would be part of the submittal of the next semiannual report, for which we already have estimated a burden to complete. We have clarified that this notification is submitted with the semiannual compliance report. The description of the monitoring system must be updated in subsequent reports only if changes are made. With respect to monitoring, the EPA has revised our burden estimate to include the cost of additional monitoring for sources that do not already have adequate monitoring for PRDs. We have estimated that half of the affected facilities must acquire between 1 and 5 monitors to meet the new requirement, at an estimated annualized cost of $30,000 for the entire source category. For more information regarding the revised PRD monitoring burden estimate, see the memorandum, *Pressure Relief Device Monitoring Impacts for the Site Remediation Source Category,* available in the docket for this action.

Regarding deviation recordkeeping and reporting, we are providing additional time to develop emissions estimation and reporting procedures. The compliance date for existing affected sources for the revised SSM requirements other than General Provisions, 40 CFR 63.6(e) and (f)(1), is 180 days after the effective date of the standard. The requirements for electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is 180 days after the effective date of the standard.

4. What is the rationale for our final approach for the amendments pursuant to CAA sections 112(d)(2) and (3)?

To ensure a standard continuously applies during malfunctions that result in emissions from a PRD actuation event, we proposed work practices and other provisions for PRDs and bypass lines on closed vent systems. Based on comments received on the proposed provisions, we have revised the proposed work practice and associated monitoring requirements for PRDs. For the reasons provided in the responses to comments above, we have revised the proposed PRD provisions to exclude PRDs on containers from the PRD work practice standards and monitoring requirements and added language to 40 CFR 63.7882 to help clarify when a PRD is subject to equipment leak requirements and when it is subject to the PRD actuation event work practice requirements. Additionally, based on information provided by commenters, we have revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

D. Other Issues and Changes Made to the Site Remediation NESHAP

1. Standards for Inorganic and Metal HAP Emissions

a. What did we propose for inorganic and metal HAP emissions?

In the May 13, 2016, proposal on reconsideration, the EPA stated that it would consider the issue of regulating metals and inorganic HAP emissions during the risk review (81 FR 29824). In the September 3, 2019, proposal, the EPA proposed to not set standards for metals and inorganic HAP from Site Remediation sources subject to the Site Remediation NESHAP because the Agency did not have data indicating that site remediation sources subject to the rule emit these pollutants. The EPA requested data demonstrating whether or not any affected Site Remediation sources emit inorganic or metal HAP.

b. How did the decision regarding inorganic and metal HAP emissions change since proposal?

In this final action, we have not made any changes to the proposed decision related to inorganic HAP and metal emissions standards.

c. What key comments did we receive regarding inorganic and metal HAP, and what are our responses?

Comment: One commenter observed that of over 200 Site Remediations in the country, the EPA found data for only six facilities. The commenter claimed that the EPA has nearly complete ignorance about actual Site Remediation emissions due to a failure by the EPA to collect the necessary data and asserts that claiming a lack of data without adequate enquiry does not excuse the Agency from the requirements of the CAA to set emission standards for each HAP a source category emits. The commenter added that data for the source category, including exempt facilities, clearly shows that Site Remediations do emit specific and substantial quantities of inorganic and metal HAP, citing EPA's residual risk assessments in the docket at proposal. In contrast, several other commenters observed that the risk assessment and the EPA's data for this source category do not demonstrate that inorganic HAP and HAP metals are emitted from affected facilities and agree with the EPA's decision not to set standards for these pollutants. Two of these commenters also note that metals are the HAP driving risks; however, this is an assumption of the model plant approach employed in conducting the risk assessment. The commenters stated that these HAP are likely not emitted, and the actual risks are likely much lower than the EPA estimates.

Response: The NEI is the basis for establishing emission profiles for the Site Remediation source category and many EPA residual RTRs performed or are in progress within the Agency. The NEI is a comprehensive national database operated by the regulated community, state agencies, and the EPA to have data available for research and analysis, public information, and rulemaking. In the case of the Site Remediation RTR, to perform the risk assessment, the EPA used data submissions from approximately 220 facilities (102 affected facilities and 118 exempt facilities) that submitted over 55,000 records of pollutant emissions for over 4,000 emission units at the entire facilities (*i.e.,* not just units subject to the Site Remediation NESHAP). The NEI provides the best information available to the EPA regarding emissions from the Site Remediation source category.

Of the affected sources, the EPA did not find any affected facilities that reported Site Remediation emissions of metals and found only one facility that emitted any other inorganic HAP, which

was asbestos. Upon further investigation of the asbestos emissions at this facility, the EPA discovered that the Site Remediation at this facility is subject to other rules applicable to asbestos cleanups, including 40 CFR part 61, subpart M, the Asbestos NESHAP. The EPA has determined that since the asbestos emissions are already regulated by another NESHAP in this instance, it is not necessary to regulate those emissions separately in the Site Remediation NESHAP.

The EPA disagrees with the commenter's assertion that exempt facilities emit substantial quantities of inorganic HAP and metals. The emissions reported in the NEI for exempt facilities shows a total of 0.04 tpy of HAP metal emissions, all of which are from one facility, and 1.3 tpy of other inorganic HAP emissions, with 97 percent of these emissions from one facility. Thus, while some exempt facilities emit limited quantities of metal and inorganic HAP, the nature of Site Remediations, which are highly site-specific and vary widely in remediation materials treated, treatment methods and equipment, and emissions, does not suggest that emissions of metal and inorganic HAP are common in Site Remediations, are emitted in large quantities, or would be expected from affected facilities. Therefore, without further evidence to support the existence of metal or inorganic HAP emission from affected facilities, the EPA has determined it is not necessary to develop emissions standards for these pollutants for this source category.

We agree with commenters that the risk assessment, which used a model approach to attribute emissions to the Site Remediation portion of a facility where the NEI did not include Site Remediation emissions, likely overstates the emissions of some HAP from the Site Remediation portions of the facilities. Where this is true, risk from those HAP would be overstated in the risk assessment results.

As we stated at proposal, to address the limited data on Site Remediation emissions for these 96 facilities, the EPA developed a model plant approach for its risk assessment. A model plant approach is commonly used in other EPA actions. The EPA developed a profile of Site Remediation emissions for each facility by applying an emissions factor based on emissions from the entire facility, including its non-category emissions from primary processes. Some of these non-category emission sources emit metal and inorganic HAP, thus leading to an attribution of a fraction of those emissions at a facility to the Site Remediation category by virtue of the use of the emissions factor. Thus, the model plant data used for modeling risk reflect metal and inorganic emissions solely because they are emitted by *non-category* sources elsewhere in the facility. The tables in Residual Risk Assessment for Facilities Exempt from the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule (see Docket ID Item No. EPA–HQ–OAR–2018–0833–0028, p. 37–43) cited by the commenter do not specifically distinguish which compounds cited by the commenter are facility-wide non-category emissions adapted to the model plant and therefore not actual emissions from site remediation activity, from those pollutants emitted by site remediation activity. With the exception of HCl, the compounds cited by the commenter are facility-wide non-category emissions, and not emitted by site remediation activity. See section IV. A.3 of this preamble for our discussion on HCl. The commenter's assertion that data for the source category shows that site remediations emit specific and substantial quantities of inorganic and metal HAP is not actually supported by the data cited by the commenter.

d. What is the rationale for our final decision regarding inorganic and metal HAP?

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed decision to not set standards for metals and inorganic HAP from Site Remediation sources.

2. SSM

a. What did we propose for SSM?

We proposed amendments to the Site Remediation NESHAP to remove or revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times.

b. How did the amendments regarding SSM change since proposal?

For SSM, the Site Remediation NESHAP at 40 CFR 63.7925(b)(1) allows a facility to bypass control devices for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down. To ensure that emissions standards apply at all times, we proposed to revise 40 CFR 63.7925(b)(1) to require the control device to be operating whenever gases or vapors containing HAP are vented through the closed-vent system to the control device. Based on comments received regarding these requirements, we have revised these proposed requirements as they apply to storage tanks. The revised requirements will allow a facility to bypass control devices on storage tanks for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down, and they are restricted from filling the tank for those 240 hours. More information concerning SSM is in the preamble to the proposed rule (84 FR 46161; September 3, 2019). We also are clarifying the compliance dates for changes in the SSM provisions. See section III.F of this preamble for compliance dates.

c. What key comments did we receive regarding SSM, and what are our responses?

We received several comments regarding SSM. We received one comment that HAP concentrations may be higher in remediation material at the startup of remediation activities, one comment that the removal of the SSM exemption is not necessary to be consistent with the *Sierra Club vs. EPA* decision, and one comment generally supporting the proposed SSM revisions. One commenter generally supported the revisions but opposed what they characterized as "exemptions" provided for PRDs during process malfunctions. Other commenters disagreed with the proposed changes related to periods of planned routine maintenance in 40 CFR 63.7925(b)(1) as they would affect tanks. Our responses to these comments can be found in the Response to Comments document in the docket. In addition to comments on SSM, we also received comment on the topic of periods for planned routine maintenance. A summary of these comments and our response is below.

Comment: Several commenters requested that the EPA retain an allowance for maintenance of control devices for tanks and add the work practice to the Site Remediation NESHAP that was finalized in the Amino and Phenolic Resins (APR) NESHAP RTR Reconsideration in October 2018. The commenters explained that this work practice allows closed vent systems on tanks to be bypassed for up to 240 hours per year for routine maintenance but prohibits sources from increasing the level of material in the tank during that time to minimize emissions by ensuring no working losses occur. Another commenter requested that the EPA

retain the current routine maintenance provision that allows all closed-vent system or control devices to be bypassed for up to 240 hours per year to perform routine maintenance. This commenter stated that the EPA has not provided any justification or analysis of the costs or emissions impact associated with the proposed change.

Response: In the proposed rule, we removed the exemption from emissions standards for periods of SSM in accordance with a decision of the Court, *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), cert. denied, 130 S. Ct. 1735 (U.S. 2010). This decision stated that the EPA must provide standards that are in place at all times, even during periods of SSM. Thus, we also removed the provision at 40 CFR 63.7925(b)(1) that allowed a control device to be bypassed for up to 240 hours per year for the performance of planned routine maintenance of the closed vent system or control device (*i.e.,* 240-hour routine maintenance exemption). As a result, the emissions limits, including those for tanks, in the proposed revised Site Remediation NESHAP would apply at all times.

While emissions from most equipment can be eliminated completely during routine maintenance of a control device, simply by not operating the process during those times, the same is not true for a tank. For a fixed roof tank complying with the NESHAP by routing emissions through a closed vent system to a control device, the stored material in the tank will continue to emit volatile compounds when the control device is not operating. The only ways for these tanks to avoid such emissions are to empty and degas the tank prior to the maintenance activity. It is possible that emptying and degassing a tank could result in greater emissions than would result from emissions from the tank during a 240-hour period. At proposal, we did not consider this emissions potential. Taking this factor into account, we decided to examine whether separate MACT standards should be established for periods of planned routine maintenance of the emission control system for the vent on a fixed roof tank at a new or existing source.

We began our examination by reviewing the title V permits for each facility subject to the Site Remediation NESHAP. In this review, we searched for facilities that had tanks subject to the emissions standards of the Site Remediation NESHAP and for any permit requirements pertaining to periods of routine maintenance of a control device for a tank. From this review, several facilities were found to have tanks subject to the Site Remediation NESHAP emission standards. While the current provisions of the Site Remediation NESHAP minimize emissions by limiting the duration of the bypass of a control device for planned routine maintenance to 240 hours per year, no additional permit conditions were found for these facilities for periods of time when the tank control device was not operating. We also reviewed other NESHAP to examine the requirements that apply to similar tanks. From the review of these NESHAP, we found that the Hazardous Organic NESHAP (HON) and several other NESHAP, including, but not limited to, those for Group I Polymers and Resins, Group IV Polymers and Resins, OSWRO, Pharmaceuticals Production, and Pesticide Active Ingredient Production with similar vapor pressure and threshold capacities have provisions that minimize HAP emissions during periods of planned routine maintenance. These provisions minimize HAP emissions by limiting the duration of planned routine maintenance to 240 hours per year. The Pharmaceuticals Production and Pesticide Active Ingredient Production NESHAP also allow a facility to request an extension of up to an additional 120 hours per year on the condition that no material is added to the tank during such requested extension period. The Amino and Phenolic Resins NESHAP includes the 240-hour provision described above and also prohibits sources from increasing the level of material in tanks during that time to minimize emissions. With these provisions, fixed roof tanks' emissions are limited to breathing losses, and the tanks do not need to be emptied and degassed to perform routine maintenance. Based on our review of these permits and NESHAP, we have determined that the MACT floor level of control for fixed roof tank vents at existing Site Remediation sources is the minimization of emissions by limiting the duration of planned routine maintenance periods in which the control device may be bypassed to 240 hours per year. Also based on this review, we identified one above-the-floor option, which is to add a work practice to prohibit the addition of material to the tank during the planned routine maintenance period when the tank control device is bypassed.[15]

We evaluated the impacts of the identified beyond-the-floor control option. We estimate that there are one to 10 facilities in the category that would need to control one or more tanks during periods when the primary emission control system is undergoing planned routine maintenance. We have assumed an equal distribution of one to five tanks at 10 facilities, for a total of 30 tanks in the source category. To comply with the work practice of not adding material to the tank during planned routine maintenance periods when the tank control device is bypassed, we anticipate no additional equipment would be needed and no additional costs would be incurred. We estimate this option would reduce emissions by up 76 lbs./year per tank and 2,280 lbs./year (1.1 tpy) for the source category (*i.e.,* 30 tanks).

Based on our analysis, the identified beyond-the-floor option is reasonable, given the level of HAP emissions reduction that would be achieved with this work practice and the absence of additional costs. Accordingly, we are revising the Site Remediation MACT standards to allow owners or operators of fixed roof vessels at new and existing affected Site Remediation facilities to perform planned routine maintenance of the emission control system for up to 240 hours per year, provided there are no working losses from the tank during that time.

This work practice standard is being established in accordance with CAA section 112(h). We note that the tank requirements in this rule were originally promulgated as CAA section 112(h) standards, which established two control options. One option is for the installation of a floating roof pursuant to 40 CFR part 63, subpart WW. This option is a combination of design, equipment, work practice, and operational standards. The other option is to install a conveyance system (pursuant to 40 CFR part 63, subpart DD) and route the emissions to a control device that achieves a 95-percent reduction in HAP emissions or that achieves a specific outlet HAP concentration. This second option is a combination of design standards, equipment standards, operational standards, and a percent reduction or outlet concentration. See the preamble to the original rulemaking for 40 CFR part 63, subpart GGGGG at 67 FR 49398 (July 30, 2002). The work practice requirement added in this action also fulfills the purposes of section 112(h)(1) of the CAA, which calls on the Administrator to include requirements in work practice standards sufficient to assure the proper operation and

[15] *Impacts Associated with the Routine Maintenance Provisions for Storage Tanks in the Site Remediation Source Category.* Memorandum from Lesley Stobert, SC&A, to Matt Witosky, available in the docket for this action, Docket ID No. EPA HQ–OAR–2018–0833.

maintenance of the design or equipment. The added work practice standard allows for the planned routine maintenance of the control device and minimizes emissions during such periods of planned routine maintenance, consistent with the requirements of CAA section 112(h)(1) by eliminating working losses during planned routine maintenance of the control device. For breathing losses, we have determined that it is not practicable due to technological and economic limitations, to measure these emissions during periods of planned routine maintenance to establish a numeric limit based upon the best performing sources. The breathing losses during the planned routine maintenance of the control system are highly dependent on the volume of the vapor space and the weather conditions during that time. Specialized flow meters (such as mass flow meters) would likely be needed in order to accurately measure any flow during these variable, no-to-low flow conditions. Measurement costs for these times would be economically impracticable, particularly in light of the small quantity of emissions. In addition, we are not aware of any measurement of breathing loss HAP emissions from a fixed roof storage vessel in the field.

d. What is the rationale for our final amendments regarding SSM?

With one exception, we are finalizing the provisions for periods of SSM provisions as proposed. The SSM-related provision regarding planned routine maintenance of control systems for storage tanks has been revised since proposal based on consideration of comments received during the public comment period. As explained in the comment response above in section 2.c, we reviewed available Site Remediation permits and the conditions of other NESHAP with similar provisions, and we determined that it is appropriate to adopt a work practice standard to allow owners or operators of fixed roof vessels at new and existing affected Site Remediation facilities to perform planned routine maintenance of the emission control system for up to 240 hours per year, provided there are no working losses from the tank during that time.

3. Electronic Reporting

a. What did we propose for electronic reporting?

As stated in the preamble to the proposed rule, to facilitate the demonstration and determination of compliance and simplify data entry, the EPA proposed to require owners and operators of Site Remediation facilities to submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports through the EPA's CDX using CEDRI. The EPA identified at proposal two broad circumstances in which electronic reporting extensions may be provided. These situations include outages of the EPA's CDX or CEDRI and force majeure events.

Additionally, for semi-annual summary compliance reports, the proposed rule required that owners and operators use a spreadsheet template to submit information to CEDRI. The EPA provided a draft version of the template for this report in the docket for the proposed rulemaking and requested comment on the content, layout, and overall design of the template.

b. How did the amendments regarding electronic reporting change since proposal?

Regarding electronic reporting, the proposed requirements to submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports have not changed. However, we have made a few corrections and clarifications to the draft spreadsheet template provided at proposal for use in submitting semi-annual summary compliance reports to CEDRI.

c. What key comments did we receive regarding electronic reporting, and what are our responses?

Comment: One commenter supported the EPA's proposal for electronic reporting but does not support the proposed reporting exemption provisions, which the commenter noted the EPA describes as "extensions," for CEDRI outages or force majeure events. The commenter stated that the provisions do not set a new firm deadline to submit the required report or a deadline to request an extension of the reporting deadline, and the EPA must set a deadline, such as 10 days. The commenter asserted that this leads to a broad and vague mechanism by which a facility could evade reporting and compliance with the emissions standards. The commenter stated that by not including a new deadline, the provision does not provide for an extension, but rather provides an exemption from the reporting requirements and potentially from meeting the emissions standards. Additionally, the commenter remarked that the EPA did not provide a reasoned basis for this provision, and it appears there is no evidence that either type of event has caused any problems with electronic reporting in the past.

Response: The EPA notes that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a Hurricane Katrina scale event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate, and, if so, on a reasonable length. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the outage is resolved or after the force majeure event occurs. For these reasons, the EPA is not adding a firm deadline for reporting when the Administrator accepts a claim of force majeure or EPA system outage and instead leaves the deadline for the extension to the discretion of the Administrator.

d. What is the rationale for our final amendments regarding electronic reporting?

We are finalizing the proposed provisions regarding electronic reporting, however, the final spreadsheet template to be used in submitting semi-annual summary compliance reports to CEDRI has been revised based on comments received during the public comment period.

4. Open-Ended Valves and Lines

a. What did we propose for OELs?

We proposed to add a paragraph to 40 CFR 63.7920(b) to clarify what "seal the open end" means for OELs under the Site Remediation NESHAP. This clarification was intended to reduce uncertainty for the owner or operator as to whether compliance is being achieved. The proposed clarification explained that, for the purpose of

complying with the requirements of 40 CFR 63.1014(b)(1) of 40 CFR part 63, subpart TT or 40 CFR 63.1033(b)(1) of subpart UU, as applicable, Site Remediation OELs are "sealed" by the cap, blind flange, plug or second valve when instrument monitoring of the OELs conducted according to EPA Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

We also proposed that OELs that are in an emergency shutdown system, and which are designed to open automatically, be equipped with either a flow indicator or a seal or locking device since 40 CFR part 63, subparts TT and UU exempt these OELs from the requirements to be equipped with a cap, blind flange, plug, or second valve that seals the open end. Additionally, we proposed recordkeeping and reporting requirements for these OELs.

b. How did the amendments regarding OELs change since proposal?

The EPA is not finalizing the proposed provisions related to OELs. These requirements include those of proposed 40 CFR 63.7920(b)(3)(i) that were intended to clarify what "seal the open end" means for OELs; the proposed requirements of 40 CFR 63.7920(b)(3)(ii), which specified that certain OELS in an emergency shutdown system be equipped with either a flow indicator or a seal or locking device; and the related proposed recordkeeping and reporting requirements for these OELs.

c. What key comments did we receive regarding OELs, and what are our responses?

Comment: Several commenters asserted that the proposal to amend the rule to clarify that open-ended valves and lines are only sealed if an EPA Method 21 instrument reading is less than 500 ppm is inconsistent with other equipment leak rulemakings under 40 CFR parts 60 and 63. The commenters oppose the EPA's proposal to clarify what "seal the open end" means for open-ended valves and lines, with one commenter noting that with the low pressure piping in Site Remediation equipment, leaks from caps or plugs are minimal, and the existing requirements are sufficient. Another commenter stated that this proposed change would add new, costly, and burdensome work practice requirements, which are not discussed in the preamble or the docket. The commenters also claimed that this clarification calls for demonstrating <500 ppm leakage by monitoring, without changing the requirement to have the open-ended line capped or plugged and without specifying any specific monitoring requirements. Further, one commenter remarked that the requirement to cap OELs was never an emissions standard but has always been considered a work practice in the form of an equipment standard. By establishing this equipment standard, the commenter said the EPA expressly rejected the idea that a capped open-ended line should be treated as a potentially leaking component that should be subject to an LDAR-like periodic leak detection requirement. The commenter remarked that imposing an emissions standard would transform the work practice into a numeric emissions limitation. Commenters also stated that by claiming this change is only a clarification of current requirements, the EPA has attempted to bypass the need to cite a CAA authorization for this change to the standard or meet the process requirements associated with such a change, including providing emission reduction, cost, and burden estimates in the record. These commenters asserted that the EPA must show that imposing a new 500 ppm emissions limit is justified, including an assessment of costs and an explanation of how the costs are reasonable in light of the expected emissions reductions. In additional remarks on the topic, some commenters noted that proposed monitoring of OELs was not finalized for 40 CFR part 60, subparts VV or VVa due to the low-cost effectiveness of the requirements in relation to VOC emissions, which would likely have been even less cost effective when considering only HAP. In addition, one commenter provided historical information regarding OELs in which the EPA did not require LDAR and only require equipment standards for subpart VV and subpart H of part 63 (the HON rule). Several commenters stated that if additional OEL requirements can be shown to be justified, the requirements should take a traditional equipment leak approach in which monitoring is performed and that a reading above a certain level, such as 500 ppm, is an action level for repair rather than a violation. One commenter added that in this approach, a missing OEL cap or plug would not be a deviation unless a reading determines that a leak above the defined threshold is occurring.

Some commenters added that this "clarification" in the Site Remediation NESHAP would appear to be a clarification to all equipment leak rules and permits containing similar language. The commenters noted that this proposal does not notify other industries subject to 40 CFR part 63, subparts TT and UU of this change. In order to impose this new standard, one commenter stated that the EPA should identify the CAA authority for this action, propose amendments to all rules referencing 40 CFR subparts TT and UU (or propose amendments to subparts TT and UU, instead) and provide cost burden and emission impact estimates for this change for all impacted rules.

Response: The EPA disagrees that the proposal changed the current requirements, which consist of an equipment standard to equip the OEL with a cap, blind flange, plug, or second valve and an operational standard that the open end is "sealed" by that equipment at all times, except during operations requiring process fluid flow or during maintenance. See 40 CFR 63.1014(b)(1) and 40 CFR 63.1033(b)(1). As stated in the preamble to the proposed rule (see 84 FR 46165; September 3, 2019), the purpose of the proposed definition for "sealed" was intended to provide compliance certainty with the codified operational requirement that the OEL is "sealed" for the Site Remediation source category. However, upon review of these comments, the EPA agrees that additional consideration of the proposed change would be appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe that it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term "sealed," and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action. In the meantime, both the equipment standard that the OEL is equipped with a cap, blind flange, plug, or second valve, and the operational standard requiring that this equipment seal the open end of the valve or line, continue to apply.

d. What is the rationale for our final decision regarding OELs?

Considering comments received during the public comment period, the EPA is not finalizing the proposed provisions for OELs. These proposed provisions were intended to clarify what "seal the open end" means for OELs, would have required certain OELS in an emergency shutdown system to be equipped with a flow indicator or a seal or locking device, and would have

required related recordkeeping and reporting requirements for these OELs.

Since OELs are present at many facilities, additional consideration of the proposed change is appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term "sealed," and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action.

The EPA emission estimates are based on reported emissions, and we did not estimate HAP reductions from the proposed approach that we are not finalizing. For this reason, the decision to not finalize the OEL provisions has no impact on estimated emissions, risks, or decisions related to risk.

5. Technical Corrections

a. What technical corrections did we propose?

We proposed several miscellaneous minor changes to improve the clarity of the Site Remediation NESHAP requirements. These proposed changes included:

- Adding citations in 40 CFR 63.14 to 40 CFR 63.7944 for the two following consensus standards: American Petroleum Institute (API) Publication 2517, Evaporative Loss From External Floating-Roof Tanks, and American Society for Testing and Materials (ASTM) Method D2879–83.
- Correcting citation errors. These include correcting the reference in 40 CFR 63.7942 to be 40 CFR 63.7(a)(3) rather than 40 CFR 63.7(3); correcting the reference in 40 CFR 63.7941 to be 40 CFR 7890(b) rather than 40 CFR 63.7980(a)(1)(i); and correcting the references in 40 CFR 63.7901(a) and (b)(1), and 40 CFR 63.7903(a) and (b) to be 40 CFR 63.7900 rather than 40 CFR 63.7990.

b. How did the technical corrections change since proposal?

We have not made any changes to the proposed technical corrections. However, we have added other technical corrections to the final rule. These include the following:

- The reporting requirement in 40 CFR 63.7951(b)(10)(i) did not specify which information should be reported with respect to a leak found under the PRD provisions. The EPA has specified that sources should report the number of times that a leak is detected during the reporting period.
- The reporting requirement in 40 CFR 63.7951(b)(10)(ii) was revised to clarify that the source is required to include a notation that the required monitoring was performed.
- The reporting requirement in 40 CFR 63.7951(b)(10)(iii)(B) was revised to require that the source report total HAP, rather than each HAP, to be consistent with the provisions in 40 CFR 63.7923(d).
- The reference to the requirement to submit a Notification of Compliance Status in 40 CFR 63.7951 at proposal has been revised for clarity.

c. What is the rationale for our final technical corrections?

These corrections have been made to correct errors, provide consistency of terms and add clarity to the rule.

e. Other Comments

Comment: A commenter recommended modifying 40 CFR 63.7885(b)(2) to address systems with process vents that are associated with gaseous systems, noting that the current regulation only provides a parts per million by weight (ppmw) value.

Response: In 40 CFR 63.7882, process vents are defined as the entire group of process vents associated with the in-situ and ex-situ remediation processes used at the site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material subject to remediation, which would include process vents associated with gaseous systems. The standard in 40 CFR 63.7885(b)(2), average volatile organic hazardous air pollutants (VOHAP) concentration of the material, is on a mass-weighted basis, ppmw. This concentration is determined by collection and analysis of a sample by one of the methods listed in 40 CFR 63.694(b)(2)(ii). These methods determine, on a mass-weighted basis, the average VOHAP concentration in ppmw. As the methods to determine the average VOHAP concentration are in terms of mass, it is appropriate for the applicability provisions for process vents to be in the same terms. Therefore, we have not modified the requirements of 40 CFR 63.7885(b)(2).

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

We estimate that there are approximately 63 major source Site Remediation facilities. Based on available permit information, 33 facilities are expected to be subject to a limited set of the rule requirements under 40 CFR 63.7881(c) due to the low annual quantity of HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed during the Site Remediations conducted at the facilities. These facilities are only required to prepare and maintain written documentation to support the determination that the total annual quantity of the HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed at the facility is less than 1 megagram per year. They are not subject to any other emissions limits, work practices, monitoring, reporting, or recordkeeping requirements. While new Site Remediations are likely to be conducted in the future, we are currently not aware of any specific new Site Remediation facilities that will be subject to the Site Remediation NESHAP.

B. What are the air quality impacts?

For equipment leaks, we are revising the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the HAP emission reduction for this change to be approximately 4.7 tpy. We anticipate a reduction of up to 1.1 tpy of HAP emissions from the revised requirements for planned routine maintenance, which eliminate the routine maintenance exemption for all affected units, and, for storage tank emissions control systems only, provide a work practice standard. We do not anticipate any HAP emission reduction from the requirement to electronically report the results of emissions testing. For the revisions to the MACT standards establishing a work practice standard for actuation of PRDs in remediation material service, we were not able to quantify the possible emission reductions, so none are included in our assessment of air quality impacts. Therefore, the total HAP emission reductions for the final rule revisions for the Site Remediation source category are estimated to be 5.8 tpy.

C. What are the cost impacts?

For equipment leaks, we are revising the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the nationwide capital costs to be $26,000 and the annual costs to be $10,000. We do not anticipate any quantifiable capital or annual costs for our requirements to electronically report the results of emissions testing. For the

requirements to monitor PRDs, we estimate the nationwide capital costs to be $162,000 and the annual costs to be $29,500. For PRDs, we are also requiring facilities to conduct analyses of the causes of PRD pressure release actuation events and to implement corrective measures. We estimate the nationwide annualized costs for the analysis of actuation events to be $13,000. This cost represents the estimated labor hours we anticipate would be required to determine the cause of a typical actuation event and to implement any corrective measure suggested by the analysis of the cause. We estimate an increase in reporting and recordkeeping associated with the requirements for equipment leaks and PRDs of approximately $7,000 per year nationwide. Therefore, the total capital costs for the regulatory changes being finalized in this action for the Site Remediation source category are approximately $188,000, and the total annualized costs are approximately $60,000.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a rule. The total capital costs associated with this rule are estimated to be approximately $188,000, and the estimated annualized cost is approximately $60,000. We expect these costs to be borne by 30 facilities, with an average annualized cost of approximately $2,000 per facility per year. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

We have estimated that this action will achieve HAP emissions reductions of 5.8 tpy. The revised standards will result in reductions in the actual and MACT-allowable emissions of HAP and may reduce the actual and potential cancer risks and noncancer health effects due to emissions of HAP from this source category, as discussed in the proposal preamble (See 84 FR 46158; September 3, 2019). We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution from these emissions.

F. What analysis of environmental justice did we conduct?

The EPA is making environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has established policies regarding the integration of environmental justice into the Agency's rulemaking efforts, including recommendations for the consideration and conduct of analyses to evaluate potential environmental justice concerns during the development of a rule.

Following these recommendations, to gain a better understanding of the source category and near source populations, the EPA conducted a demographic analysis for Site Remediation facilities to identify any overrepresentation of minority, low income, or indigenous populations. This analysis only gives an indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations. Additionally, the final changes to the NESHAP increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks and from storage tanks during periods of planned routine maintenance of emissions control systems, and these revisions do not cause any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations. Further details concerning the demographic analysis are presented in the memorandum titled, *Risk and Technology Review—Analysis of Demographic Factors For Populations Living Near Site Remediation Source Category Operations,* a copy of which is available in the docket for this action.

G. What analysis of children's environmental health did we conduct?

As part of the health and risk assessments, as well as the demographic analysis conducted for this action, risks to infants and children were assessed. These analyses are documented in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the March 2020 Risk and Technology Review Final Rule* and the *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations* documents and are available in the docket for this action.

The results of the demographic analysis show that the average percentage of children 17 years and younger in close proximity to Site Remediation facilities is approximately the same as the percentage of the national population in this age group. Consistent with the EPA's Policy on Evaluating Health Risks to Children, we conducted inhalation and multipathway risk assessments for the Site Remediation source category, considering risk to infants and children.[16] Children are exposed to chemicals emitted to the atmosphere via two primary routes: either directly via inhalation, or indirectly via ingestion or dermal contact with various media that have been contaminated with the emitted chemicals. The EPA considers the possibility that children might be more sensitive than adults to toxic chemicals, including chemical carcinogens. For our inhalation risk assessment, several carcinogens emitted by facilities in this source category have a mutagenic mode of action. For these compounds, we applied the age-dependent adjustment factors (ADAF) described in the EPA's *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.*[17] This adjustment has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6. For one group of these chemicals with a mutagenic mode of action, polycyclic organic matter (POM), only a small fraction of the total emissions were reported as individual compounds. The EPA expresses

[16] *Policy on Evaluating Health Risks to Children,* U.S. Environmental Protection Agency, Washington, DC. May 2014. Available at *http://www2.epa.gov/sites/production/files/2014-05/documents/1995_childrens_health_policy_statement.pdf.*

[17] *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.* Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R–03/003F. March 2005. Available at *http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf.*

carcinogenic potency of POM relative to the carcinogenic potency of benzo[a]pyrene, based on evidence that carcinogenic POM has the same mutagenic mode of action as does benzo[a]pyrene. The EPA's Science Policy Council recommends applying the ADAF to all carcinogenic compounds for which risk estimates are based on potency relative to benzo[a]pyrene. Accordingly, we have applied the ADAF to the benzo[a]pyrene-equivalent mass portion of all POM mixtures. For our multipathway screening assessment (*i.e.,* ingestion), we assessed risks for adults and various age groups of children. Children's exposures are expected to differ from exposures of adults due to differences in body weights, ingestion rates, dietary preferences and other factors. It is important, therefore, to evaluate the contribution of exposures during childhood to total lifetime risk using appropriate exposure factor values, applying ADAF as appropriate. The EPA developed a health protective exposure scenario whereby the receptor, at various lifestages, receives ingestion exposure via both the farm food chain and the fish ingestion pathways. The analysis revealed that fish ingestion is the dominant exposure pathway across all age groups for several pollutants, including POM. For POM, the farm food chain also is a major route of exposure, with beef and dairy contributing significantly to the lifetime average daily dose. Preliminary calculations of estimated dermal exposure and risk from these pollutants showed that the dermal exposure route is not a significant risk pathway relative to ingestion exposures. Based on the analyses described above, the EPA has determined that the changes to this rule, which will reduce emissions of HAP by over 5 tpy, will lead to reduced risk to children and infants.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2062.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements in this rulemaking are based on the notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports, and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

Respondents/affected entities: Unlike a specific industry sector or type of business, the respondents potentially affected by this ICR cannot be easily or definitively identified. Potentially, the Site Remediation rule may be applicable to any type of business or facility at which a Site Remediation is conducted to clean up media contaminated with organic HAP when the remediation activities are performed, the authority under which the remediation activities are performed, and the magnitude of the HAP in the remediation material meets the applicability criteria specified in the rule. A Site Remediation that is subject to this rule potentially may be conducted at any type of privately-owned or government-owned facility at which contamination has occurred due to past events or current activities at the facility. For Site Remediation performed at sites where the facility has been abandoned and there is no owner, a government agency may have responsibility for the cleanup.

Respondent's obligation to respond: Mandatory (42 U.S.C. 7414).

Estimated number of respondents: 30 total for the source category. These facilities are already respondents and no facilities are expected to become respondents as a result of this action.

Frequency of response: Semiannual.

Total estimated burden: 19,700 total hours (per year) for the source category, of which 310 hours are estimated as a result of this action. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The total estimated cost of the rule is $1.55 million (per year) for the source category. This includes $288,000 total annualized capital or operation and maintenance costs. We estimate that $188,000 of the $288,000 in total annualized capital or operation and maintenance costs is a result of this action. Recordkeeping and reporting costs of approximately $20,000 estimated as a result of this action are included in the $1.55 million in total costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are chemical and refining companies. The Agency has determined that two small entities, representing approximately 7 percent of the total number of entities subject to the rule, may experience an impact of less than 0.1 percent of revenues. Details of this analysis are presented in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial

direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). There are no Site Remediation facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule* document, which is available in the docket for this action, and are discussed in sections III.A and IV.A of this preamble.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51

This action involves technical standards. The EPA is formalizing the incorporation of two technical standards that were included in the October 2003 rule for which the EPA had previously not formally requested the Office of the Federal Register to include in 40 CFR 63.14 with a reference back to the sections in 40 CFR part 63, subpart GGGGG. These two standards were already incorporated in 40 CFR 63.14 and were formally requested for other rules. These standards are API Publication 2517, "Evaporative Loss from External Floating-Roof Tanks," Third Edition, February 1989, and ASTM D2879–83, "Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope." Sources subject to the Site Remediation NESHAP must determine the average total VOHAP concentration of a remediation material using either direct measurement or by knowledge of the material. These methods may be used to determine the average VOHAP concentration of remediation material. These analyses are used to determine control requirements for compliance with applicable standards. While the API Publication 2517 is used to determine emissions from floating roof tanks, an important component in determining these emissions is the vapor pressure of the material stored in the tank. Therefore, this publication includes widely used methods for determining the maximum true vapor pressure of HAP in liquids stored at ambient temperature and is available to the public for purchase from the reseller IHS Markit Standards Store through their website at *https://global.ihs.com/*. The ASTM D2879–83 method is also used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature, and it is available to the public for free viewing online in the Reading Room section on ASTM's website at *https://www.astm.org/READINGLIBRARY/*. Hardcopies and printable versions are also available for purchase from ASTM. Additional information can be found at *http://www.api.org/* and *https://www.astm.org/Standard/standardsandpublications.html*.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations. The results of the demographic analysis completed by the EPA are presented in the memorandum titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0833) and are discussed in section V.F of this preamble.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 12, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 63.14 is amended by revising paragraphs (c)(1) and (h)(31) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(c) * * *

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for §§ 63.111, 63.1402, 63.2406 and 63.7944.

Note 1 to paragraph (c)(1): API Publication 2517 available through reseller HIS Markit at *https://global.ihs.com/*

* * * * *

(h) * * *

(31) ASTM D2879–83, Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, Approved November 28, 1983, IBR approved for §§ 63.111, 63.1402, 63.2406, 63.7944, and 63.12005.

* * * * *

Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation

■ 3. Section 63.7882 is amended by revising paragraph (a) introductory text

and adding paragraph (a)(4) to read as follows:

§ 63.7882 What site remediation sources at my facility does this subpart affect?

(a) This subpart applies to each new, reconstructed, or existing affected source for your Site Remediation as designated by paragraphs (a)(1) through (4) of this section.

* * * * *

(4) *Pressure relief devices.* The affected source is any pressure relief device in remediation material service, as defined in § 63.7957. Pressure relief devices meeting the specifications of paragraph (a)(3) of this section are also part of an equipment leaks affected source.

* * * * *

■ 4. Section 63.7883 is amended by revising paragraphs (a), (b) introductory text, (c) introductory text, and (d) introductory text and adding paragraph (f) to read as follows:

§ 63.7883 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than October 9, 2006, except as provided in paragraph (f) of this section.

(b) If you have a new affected source that manages remediation material other than a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (b)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

* * * * *

(c) If you have a new affected source that manages remediation material that is a radioactive mixed waste as defined in § 63.7957, then you must meet the compliance date specified in paragraph (c)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

* * * * *

(d) If your facility is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP as defined in § 63.2, then you must meet the compliance dates specified in paragraphs (d)(1) and (2) of this section, except as provided in paragraph (f) of this section.

* * * * *

(f) If the affected source's initial startup date is on or before September 3, 2019, you must comply with the requirements specified in paragraphs (f)(1) through (5) of this section by the dates specified in those paragraphs. If the affected source's initial startup date is after September 3, 2019, you must comply with all of the applicable requirements of this subpart upon initial startup or July 10, 2020, whichever is later.

(1) You must comply with the equipment leak requirements of § 63.7920(b)(3), (d), and (e) on or before July 10, 2021.

(2) You must comply with the pressure relief device requirements of § 63.7923(a) on or before January 6, 2021.

(3) You must comply with the pressure relief device requirements of § 63.7923(b) through (f) on or before January 10, 2022.

(4) You must comply with the pressure tank closure device reporting and recordkeeping requirements of §§ 63.7951(b)(11) and 63.7952(a)(7) on or before January 6, 2021.

(5) You must comply with the electronic reporting requirements of § 63.7951(e) through (h) on or before January 6, 2021.

■ 5. Section 63.7895 is amended by revising paragraph (c) to read as follows:

§ 63.7895 What emissions limitations and work practice standards must I meet for tanks?

* * * * *

(c) If you use Tank Level 1 controls, you must install and operate a fixed roof according to the requirements in § 63.902, with the exceptions specified in paragraphs (c)(1) and (2) of this section. As an alternative to using this fixed roof, you may choose to use one of Tank Level 2 controls in paragraph (d) of this section.

(1) Where § 63.902(c)(2) provides an exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere, for any source for the purposes of this subpart, only a conservation vent is eligible for the exception after January 6, 2021. If your initial startup date is after September 3, 2019, the exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device does not apply, with the exception of a conservation vent, for the purposes of this subpart after July 10, 2020.

(2) The provisions of § 63.902(c)(3) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; for any source the provisions of § 63.902(c)(3) do not apply for the purposes of this subpart after January 6, 2021.

* * * * *

■ 6. Section 63.7896 is amended by revising paragraphs (c)(1) and (3) and (f)(1) to read as follows:

§ 63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(c) * * *

(1) Each tank using Tank Level 1 controls is equipped with a fixed roof and closure devices according to the requirements in § 63.902(b) and (c), with the exceptions specified in § 63.7895(c)(1) and (2), and you have records documenting the design.

* * * * *

(3) You will operate the fixed roof and closure devices according to the requirements in § 63.902, with the exceptions specified in § 63.7895(c)(1) and (2).

* * * * *

(f) * * *

(1) Each tank is equipped with a fixed roof and closure devices according to the requirements in § 63.685(g), with the exceptions specified in § 63.7895(c)(1) and (2), and you have records documenting the design.

* * * * *

■ 7. Section 63.7898 is amended by revising paragraph (c)(1) to read as follows:

§ 63.7898 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(c) * * *

(1) Operating and maintaining the fixed roof and closure devices according to the requirements in § 63.902(c), with the exceptions specified in § 63.7895(c)(1) and (2).

* * * * *

■ 8. Section 63.7900 is amended by revising paragraphs (b)(1) through (3), (c), and (d) to read as follows:

§ 63.7900 What emissions limitations and work practice standards must I meet for containers?

* * * * *

(b) * * *

(1) If the design capacity of your container is less than or equal to 0.46 m^3, then you must use controls according to the standards for Container Level 1 controls as specified in § 63.922. As an alternative, you may choose to use controls according to either of the standards for Container Level 2 controls as specified in § 63.923. § 63.922(d)(4)

and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.922(d)(4) and (5) do not apply for the purposes of this subpart for any source after January 6, 2021.

(2) If the design capacity of your container is greater than 0.46 m3, then you must use controls according to the standards for Container Level 2 controls as specified in § 63.923 except as provided for in paragraph (b)(3) of this section. § 63.923(d)(4) and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.923(d)(4) and (5) do not apply for the purposes of this subpart for any source after January 6, 2021.

(3) As an alternative to meeting the standards in paragraph (b)(2) of this section for containers with a capacity greater than 0.46 m3, if you determine that either of the conditions in paragraph (b)(3)(i) or (ii) apply to the remediation material placed in your container, then you may use controls according to the standards for Container Level 1 controls as specified in § 63.922. § 63.922(d)(4) and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.922(d)(4) and (5) do not apply for the purposes of this subpart for any source after January 6, 2021.

* * * * *

(c) At times when a container having a design capacity greater than 0.1 m3 is used for treatment of a remediation material by a waste stabilization process as defined in § 63.7957, you must control air emissions from the container during the process whenever the remediation material in the container is exposed to the atmosphere according to the standards for Container Level 3 controls as specified in § 63.924. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device. § 63.924(d) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.924(d) does not apply for the purposes of this subpart for any source after January 6, 2021.

(d) As an alternative to meeting the requirements in paragraph (b) of this section, you may choose to use controls on your container according to the standards for Container Level 3 controls as specified in § 63.924. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device. § 63.924(d) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.924(d) does not apply for the purposes of this subpart for any source after January 6, 2021.

* * * * *

■ 9. Section 63.7901 is amended by revising paragraphs (a), (b)(1), (c)(2), and (d)(3) to read as follows:

§ 63.7901 How do I demonstrate initial compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in § 63.7900 that apply to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section, as applicable to your containers.

(b) * * *

(1) You have determined the applicable container control levels specified in § 63.7900 for the containers to be used for your Site Remediation.

* * * * *

(c) * * *

(2) You will operate each container cover and closure device according to the requirements in § 63.922(d), with the exceptions specified in § 63.7900(b)(1).

(d) * * *

(3) You will operate and maintain the container covers and closure devices according to the requirements in § 63.923(d), with the exceptions specified in § 63.7900(b)(2).

* * * * *

■ 10. Section 63.7903 is amended by revising paragraphs (a), (b) introductory text, (c)(1), and (d)(2) to read as follows:

§ 63.7903 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in § 63.7900 applicable to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable container control level specified in § 63.7900(b) for each affected tank by meeting the requirements in paragraphs (b)(1) through (3) of this section.

* * * * *

(c) * * *

(1) Operating and maintaining covers for each container according to the requirements in § 63.922(d), with the exceptions specified in § 63.7900(b)(1).

* * * * *

(d) * * *

(2) Operating and maintaining container covers according to the requirements in § 63.923(d), with the exceptions specified in § 63.7900(b)(2).

* * * * *

■ 11. Section 63.7905 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.7905 What emissions limitations or work practice standards must I meet for surface impoundments?

* * * * *

(b) * * *

(1) Install and operate a floating membrane cover according to the requirements in § 63.942. § 63.942(c)(2) and (3) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.942(c)(2) and (3) do not apply for the purposes of this subpart for any source after January 6, 2021; or

(2) Install and operate a cover vented through a closed vent system to a control device according to the requirements in § 63.943. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device. § 63.943(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.943(c)(2) does not apply for the purposes of this subpart for any source after January 6, 2021.

* * * * *

■ 12. Section 63.7906 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 63.7906 How do I demonstrate initial compliance with the emissions limitations or work practice standards for surface impoundments?

* * * * *

(b) * * *

(2) You will operate the cover and closure devices according to the requirements in § 63.942(c), with the exceptions specified in § 63.7905(b)(1).

* * * * *

(c) * * *

(2) You will operate the cover and closure devices according to the requirements in § 63.943(c), with the exceptions specified in § 63.7905(b)(2).

* * * * *

■ 13. Section 63.7908 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 63.7908 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for surface impoundments?

* * * * *

(b) * * *

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in § 63.942(c), with the exceptions specified in § 63.7905(b)(1).

* * * * *

(c) * * *

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in § 63.943(c), with the exceptions specified in § 63.7905(b)(2).

* * * * *

■ 14. Section 63.7910 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 63.7910 What emissions limitations and work practice standards must I meet for separators?

* * * * *

(b) * * *

(1) Install and operate a floating roof according to the requirements in § 63.1043. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, you must comply with the requirements specified in paragraph (b)(2) of this section. § 63.1043(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.1043(c)(2) does not apply for the purposes of this subpart for any source after January 6, 2021.

(2) Install and operate a fixed roof vented through a closed vent system to a control device according to the requirements in § 63.1044. You must meet the emissions limitations and work practice standards in § 63.7925 that apply to your closed vent system and control device. § 63.1044(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.1044(c)(2) does not apply for the purposes of this subpart for any source after January 6, 2021.

(3) Install and operate a pressurized separator according to the requirements in § 63.1045. § 63.1045(b)(3)(i) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; § 63.1045(b)(3)(i) does not apply for the purposes of this subpart for any source after January 6, 2021.

* * * * *

■ 15. Section 63.7911 is amended by revising paragraphs (b)(2), (c)(2), and (d)(2) to read as follows:

§ 63.7911 How do I demonstrate initial compliance with the emissions limitations and work practice standards for separators?

* * * * *

(b) * * *

(2) You will operate the floating roof and closure devices according to the requirements in § 63.1043(c), with the exceptions specified in § 63.7910(b)(1).

(c) * * *

(2) You will operate the fixed roof and its closure devices according to the requirements in § 63.1042(c). § 63.1042(c)(3) does not apply for the purposes of this subpart if your initial date is after September 3, 2019; § 63.1042(c)(3) does not apply for the purposes of this subpart for any source after January 6, 2021.

* * * * *

(d) * * *

(2) You will operate the pressurized separator as a closed system according to the requirements in § 63.1045(b)(3), with the exceptions specified in § 63.7910(b)(3).

■ 16. Section 63.7912 is amended by revising paragraph (c) to read as follows:

§ 63.7912 What are my inspection and monitoring requirements for separators?

* * * * *

(c) If you use a pressurized separator that operates as a closed system according to § 63.7910(b)(3), you must visually inspect each pressurized separator and closure devices for defects at least annually to ensure they are operating according to the design requirements in § 63.1045(b), with the exceptions specified in § 63.7910(b)(3).

■ 17. Section 63.7913 is amended by revising paragraphs (c)(1) and (d)(1) to read as follows:

§ 63.7913 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for separators?

* * * * *

(c) * * *

(1) Operating and maintaining the fixed roof and its closure devices according to the requirements in § 63.1042, with the exceptions specified in § 63.7911(c)(2).

* * * * *

(d) * * *

(1) Operating the pressurized separator at all times according to the requirements in § 63.1045, with the exceptions specified in § 63.7910(b)(3).

* * * * *

■ 18. Revise the undesignated center heading for §§ 63.7920 through 63.7922 to read as follows:

Equipment Leaks and Pressure Relief Devices

■ 19. Section 63.7920 is amended by:
■ a. Revising paragraph (b)(1);
■ b. Adding paragraph (b)(3);
■ c. Redesignating paragraph (d) as paragraph (f); and
■ d. Adding new paragraph (d) and paragraph (e).

The additions and revisions read as follows:

§ 63.7920 What emissions limitations and work practice standards must I meet for equipment leaks?

* * * * *

(b) * * *

(1) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart TT—National Emission Standards for Equipment Leaks—Control Level 1, with the differences noted in paragraph (b)(3) of this section for the purposes of this subpart; or

* * * * *

(3)(i) For the purpose of complying with the requirements of § 63.1006(b)(2), the instrument reading that defines a leak is 500 parts per million or greater.

(ii) For the purpose of complying with the requirements of § 63.1007(b)(2), the instrument reading that defines a leak is 5,000 parts per million or greater for pumps handling polymerizing monomers; 2,000 parts per million or greater for pumps in food/medical service; and 1,000 parts per million or greater for all other pumps.

* * * * *

(d) For the purposes of this subpart, the requirements of § 63.7920(e) of this subpart apply rather than those of § 63.1030 or of § 63.1011, as applicable, for pressure relief devices in gas and vapor service. The requirements of § 63.7920(e) of this subpart apply rather than those of § 63.1029 or of § 63.1010, as applicable, for pressure relief devices in liquid service.

(e) Operate each pressure relief device under normal operating conditions, as indicated by an instrument reading of less than 500 ppm above the background level as detected by the method specified in § 63.1004(b) or § 63.1023(b), as applicable.

* * * * *

■ 20. Section 63.7923 is added before the undesignated center heading "Closed Vent Systems and Control Devices" to read as follows:

§ 63.7923 What monitoring and work practice standards must I meet for pressure relief devices?

(a) For each pressure relief device in remediation material service, you must

comply with either paragraph (a)(1) or (2) of this section following a pressure release actuation event, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, return the pressure relief device to the normal operating conditions specified in § 63.7920(e) as soon as practicable and conduct instrument monitoring by the method specified in § 63.1004(b) or § 63.1023(b), as applicable, no later than 5 calendar days after the pressure release device returns to remediation material service following a pressure release actuation event, except as provided in § 63.1024(d) or of § 63.1005(c), as applicable.

(2) If the pressure relief device consists of or includes a rupture disk, except as provided in § 63.1024(d) or § 63.1005(c), as applicable, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release actuation event.

(b) Except for the pressure relief devices described in paragraph (e) of this section, you must comply with the requirements of paragraphs (c) and (d) of this section for each pressure relief device in remediation material service.

(c) Equip each pressure relief device in remediation material service with a device(s) or use a monitoring system sufficient to indicate a pressure release to the atmosphere. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, pressure monitor, or parametric monitoring system. The device(s) or monitoring systems must be capable of meeting the requirements specified in paragraphs (c)(1) through (3) of this section.

(1) Identifying the pressure release;

(2) Recording the time and duration of each pressure release; and

(3) Notifying operators immediately that a pressure release is occurring.

(d) If any pressure relief device in remediation material service releases directly to the atmosphere as a result of a pressure release actuation event, follow the requirements of paragraphs (d)(1) through (6) of this section.

(1) Calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release actuation event. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(2) Determine the total number of pressure release actuation events that occurred during the calendar year for each pressure relief device.

(3) Determine the total number of pressure release actuation events for each pressure relief device for which the analysis conducted as required by paragraph (d)(4) of this section concluded that the pressure release was due to a force majeure event, as defined in § 63.7957.

(4) Complete an analysis to determine the source, nature and cause of each pressure release actuation event as soon as practicable, but no later than 45 days after a pressure release actuation event.

(5) Identify corrective measures to prevent future such pressure release actuation events as soon as practicable, but no later than 45 days after a pressure release actuation event.

(6) Implement the corrective measure(s) identified as required by paragraph (d)(5) of this section within 45 days of the pressure release actuation event or as soon thereafter as practicable. For corrective measures that cannot be fully implemented within 45 days following the pressure release actuation event, you must record the corrective measure(s) completed to date, and, for measure(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, no later than 45 days following the pressure release actuation event.

(e) The pressure relief devices listed in paragraphs (e)(1) through (6) are not subject to the requirements in paragraph (c) or (d) of this section.

(1) Pressure relief devices designed and operated to route all pressure releases through a closed vent system to a drain system meeting the requirements of §§ 63.7915–63.7918, or to a fuel gas system, process or control device meeting the requirements of §§ 63.7925 through 63.7928.

(2) Pressure relief devices in heavy liquid service, as defined in § 63.1001 or § 63.1020, as applicable.

(3) Thermal expansion relief valves.

(4) Pilot-operated pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(5) Balanced bellows pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(6) Pressure relief devices on containers, as defined in § 63.7957.

(f) Except for the pressure relief devices described in paragraph (e) of this section, it is a violation of the requirements of paragraphs (c) and (d) of this section for any pressure relief device in remediation material service to release directly to the atmosphere as a result of a pressure release actuation event(s) described in paragraphs (f)(1) through (3) of this section.

(1) Any pressure release actuation event for which the cause of the event determined as required by paragraph (d)(4) of this section was determined to be operator error or poor maintenance.

(2) A second pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for the same cause for the same equipment.

(3) A third pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for any reason.

■ 21. Section 63.7925 is amended by revising paragraph (b) to read as follows:

§ 63.7925 What emissions limitations and work practice standards must I meet for closed vent systems and control devices?

* * * * *

(b) You must comply with paragraph (b)(2) of this section, and paragraph (b)(1) of this section does not apply, if your initial startup date is after September 3, 2019. If your initial startup date was on or before September 3, 2019, you must comply with paragraph (b)(1) or (2) of this section until January 7, 2021, and after that date, you must comply with paragraph (b)(2) of this section, and paragraph (b)(1) of this section does not apply.

(1) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating except at those times listed in either paragraph (b)(1)(i) or (ii) of this section.

(i) The control device may be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the emission point vented to the control device is shutdown. On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance must not exceed 240 hours per each calendar year.

(ii) The control device may be bypassed for the purpose of correcting a malfunction of the closed-vent system or control device. You must perform the

adjustments or repairs necessary to correct the malfunction as soon as practicable after the malfunction is detected.

(2) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating, except that the control device on a tank may be bypassed for the purpose of performing planned routine maintenance of the control device. When the tank control device is bypassed, the owner or operator must comply with paragraphs (b)(2)(i) through (iii) of this section.

(i) The control device may only be bypassed when the planned routine maintenance cannot be performed during periods that tank emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance must not exceed 240 hours per each calendar year.

(iii) The level of material in the tank must not be increased during periods that the closed-vent system or control device is bypassed to perform planned routine maintenance.

* * * * *

■ 22. Section 63.7935 is amended by:

■ a. Revising paragraphs (a) through (c), (e), and (f);

■ b. Adding paragraphs (g)(4) and (5); and

■ c. Revising paragraphs (h)(1) through (3) to read as follows:

§ 63.7935 What are my general requirements for complying with this subpart?

(a) If your initial startup was on or before September 3, 2019, you must be in compliance with the emissions limitations (including operating limits) and the work practice standards in this subpart at all times, except, until January 6, 2021, during periods of startup, shutdown, and malfunction. If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources, after January 6, 2021, you must be in compliance with the emission limitations (including operating limits) and the work practice standards in this subpart at all times.

(b) If your initial startup was on or before September 3, 2019, then until January 6, 2021, you must operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) If your initial startup date was on or before September 3, 2019, then until January 6, 2021, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3), and a SSMP is not required after January 6, 2021. No SSMP is required for any source for which the initial startup date is after September 3, 2019.

* * * * *

(e) You must report each instance in which you did not meet each emissions limitation and each operating limit that applies to you. You must also report each instance in which you did not meet the requirements for work practice standards that apply to you. These instances are deviations from the emissions limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.7951.

(f) If your initial start date was on or before September 3, 2019, consistent with §§ 63.6(e) and 63.7(e)(1), then until January 6, 2021, deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). We will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e). If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, you must be in compliance with the emission limitations in this subpart at all times (unless a longer timeframe for compliance is expressly provided in this subpart), and we will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.7935(a) and (b).

* * * * *

(g) * * *

(4) Continuous monitoring system (CMS) operation and maintenance requirements in accordance with § 63.7945.

(5) CMS data collection in accordance with § 63.7946.

(h) * * *

(1) If your initial startup was on or before September 3, 2019, then until January 6, 2021, you must address ongoing operation and maintenance (O&M) procedures in accordance with the general requirements of § 63.8(c)(1), (3), (4)(ii), (7), and (8). If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, you must address ongoing O&M procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and (c)(7) and (8).

(2) If your initial startup was on or before September 3, 2019, then until January 6, 2021, you must address ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d). If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, you must address ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d) except for the requirements related to startup, shutdown, and malfunction plans referenced in § 63.8(d)(3). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

(3) If your initial startup was on or before September 3, 2019, then until January 6, 2021, you must address ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i). If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, you must address ongoing recordkeeping and reporting

procedures in accordance with the general requirements of § 63.10(c)(1) through (14), (e)(1), and (e)(2)(i).

* * * * *

■ 23. Section 63.7941 is amended by revising paragraphs (b)(2) and (b)(4) introductory text to read as follows:

§ 63.7941 How do I conduct a performance test, design evaluation, or other type of initial compliance demonstration?

* * * * *

(b) * * *

(2) If your initial startup date was on or before September 3, 2019, then until January 6, 2021, you must conduct each performance test under representative conditions according to the requirements in § 63.7(e)(1). If your initial startup date is after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, you must conduct each performance test under conditions representative of normal operations. You may not conduct performance tests during periods of startup, shutdown, or malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(4) Follow the procedures in paragraphs (b)(4)(i) through (iii) of this section to determine compliance with the facility-wide total organic mass emissions rate in § 63.7890(b).

* * * * *

■ 24. Section 63.7942 is revised to read as follows:

§ 63.7942 When must I conduct subsequent performance tests?

For non-flare control devices, you must conduct performance tests at any time the EPA requires you to according to § 63.7(a)(3).

■ 25. Section 63.7943 is amended by revising paragraph (d) to read as follows:

§ 63.7943 How do I determine the average VOHAP concentration of my remediation material?

* * * * *

(d) In the event that you and we disagree on a determination using knowledge of the average total VOHAP concentration for a remediation material, then the results from a determination of VOHAP concentration using direct measurement by EPA Method 305 in 40 CFR part 60, appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

■ 26. Section 63.7944 is amended:

■ a. In paragraph (b)(2)(ii), immediately before the end semicolon, by adding "(incorporated by reference, see § 63.14)";

■ b. In paragraph (b)(2)(iv), by removing the words "Method 2879–83" and adding in their place "D2879–83 (incorporated by reference, see § 63.14)"; and

■ c. Revising paragraph (d).

The revision reads as follows:

§ 63.7944 How do I determine the maximum HAP vapor pressure of my remediation material?

* * * * *

(d) In the event that you and us disagree on a determination using knowledge of the maximum HAP vapor pressure of the remediation material, then the results from a determination of maximum HAP vapor pressure using direct measurement by EPA Method 25E in 40 CFR part 60, appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

■ 27. Section 63.7945 is amended by adding paragraph (d) to read as follows:

§ 63.7945 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(d) Failure to meet the requirements of paragraphs (a)(1) through (4) of this section is a deviation and must be reported according to the requirements in § 63.7951(b)(7).

■ 28. Section 63.7951 is amended by:

■ a. Adding paragraphs (a)(6) and (7);

■ b. Revising paragraphs (b)(4), (b)(7) introductory text, (b)(7)(ii), (b)(8) introductory text, and (b)(8)(i), (iv), and (vi),

■ d. Adding paragraphs (b)(10) and (11);

■ e. Revising paragraph (c); and

■ d. Adding paragraphs (e) through (h).

The additions and revisions read as follows:

§ 63.7951 What reports must I submit and when?

(a) * * *

(6) For pressure relief devices in remediation material service subject to the requirements of § 63.7923, submit a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored, and a description of the alarms or other methods by which operators will be notified of a pressure release. If your initial startup date was on or before September 3, 2019, then this information must be submitted with the next semi-annual periodic compliance report. If your initial startup date is after September 3, 2019, this information must be submitted in the first periodic compliance report. The information must be updated in subsequent reports if changes are made.

(7) Semi-annual compliance reports must be submitted according to paragraph (f) of this section.

(b) * * *

(4) If your initial startup date was on or before September 3, 2019, then until January 6, 2021, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). If your initial startup date is after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, an SSMP and the information in § 63.10(d)(5)(i) is not required.

* * * * *

(7) For each deviation from an emissions limitation (including an operating limit) that occurs at an affected source for which you are not using a continuous monitoring system (including a CPMS or CEMS) to comply with an emissions limitation or work practice standard required in this subpart, the compliance report must contain the information specified in paragraphs (b)(1) through (3) and (b)(7)(i) and (ii) of this section.

* * * * *

(ii) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(8) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source

where you are using a continuous monitoring system (including a CPMS or CEMS) to comply with the emissions limitations or work practice standard in this subpart, you must include the information specified in paragraphs (b)(1) through (3) and (b)(8)(i) through (xi) of this section.

(i) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(iv) For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

* * * * *

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and unknown causes.

* * * * *

(10) For pressure relief devices in remediation material service, compliance reports must include the information specified in paragraphs (b)(10)(i) through (iii) of this section.

(i) For pressure relief devices in remediation material service subject to § 63.7920(e), report the number of occurrences of an instrument reading of 500 ppm above the background level or greater, if detected more than 5 days after a pressure release.

(ii) For pressure relief devices in remediation service subject to § 63.7923(c), report confirmation, yes or no, that the monitoring required to show compliance was conducted during the reporting period.

(iii) For pressure relief devices in remediation material service subject to § 63.7923(d), report each pressure release to the atmosphere, including the following information:

(A) The date, time, and duration of the pressure release actuation event.

(B) An estimate of the mass quantity of total HAP listed in Table 1 of this subpart emitted during the pressure release actuation event and the method used for determining this quantity.

(C) The source, nature and cause of the pressure release actuation event.

(D) The actions taken to prevent this pressure release actuation event.

(E) The measures implemented during the reporting period to prevent future such pressure release actuation events, and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(11) Pressure tank closure device or bypass deviation information. Compliance reports must include the information specified in paragraph (b)(11)(iv) of this section when any of the conditions in paragraphs (b)(11)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in specified in § 63.7895(d)(4), has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in § 63.7927(a)(2), has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.1014(c) or § 63.1033(c), has released directly to the atmosphere.

(iv) The compliance report must include the information specified in paragraphs (b)(11)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of total HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

(c) *Immediate startup, shutdown, and malfunction report.* If your initial startup was on or before September 3, 2019, then until January 6, 2021, if you had a startup, shutdown, or malfunction during the semiannual reporting period that was not consistent with your SSMP, you must submit an immediate startup, shutdown and malfunction report according to the requirements of § 63.10(d)(5)(ii). If your initial startup date is after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, an immediate startup, shutdown, and malfunction report is not required.

* * * * *

(e) *Performance Test and CMS Performance Evaluation Reports.* Within 60 days after the date of completing each performance test or continuous monitoring system (CMS) performance evaluation (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test or performance evaluation according to the manner specified by either paragraph (e)(1) or (2) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test or the performance evaluation of CMS measuring relative accuracy test audit (RATA) pollutants to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test or the performance evaluation of CMS measuring RATA pollutants by methods that are not supported by the ERT must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. The results of the performance test or the performance evaluation of CMS measuring RATA pollutants by methods that are not supported by the ERT, must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(f) *Submitting reports electronically.* If you are required to submit reports following the procedure specified in

this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (g)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(h) *Claims of force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majuere, you must meet the requirements outlined in paragraphs (h)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 29. Section 63.7952 is amended by:
■ a. Revising paragraph (a)(2);
■ b. Redesignating paragraphs (a)(3) and (4) as paragraphs (a)(9) and (10);
■ c. Adding new paragraph (a)(3) and paragraphs (a)(4) through (8) and (e).

The revision and additions read as follows:

§ 63.7952 What records must I keep?

(a) * * *

(2) If your initial startup date is on or before September 3, 2019, you must continue to keep any records specified in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) If your initial startup was after September 3, 2019, then as of July 10, 2020, and for all sources after January 6, 2021, for each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source, you must record information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

(4) For pressure relief devices in remediation material service, keep records of the information specified in paragraphs (a)(4)(i) through (iii) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that are not subject to the requirements of § 63.7923(c) and (d) under the provisions of § 63.7923(e).

(ii) A list of identification numbers for pressure relief devices subject to the requirements of § 63.7923(a), (c), and (d) that do not consist of or include a rupture disk.

(iii) A list of identification numbers for pressure relief devices subject to the requirements of § 63.7923(a), (c), and (d) equipped with rupture disks.

(5) For pressure relief devices in remediation material service subject to § 63.7923(d), keep records of each pressure release event to the atmosphere as specified in paragraphs (a)(5)(i) through (viii) of this section.

(i)The date, time, and duration of the pressure release event.

(ii) The dates and results of the EPA Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release event, if applicable. The results of each monitoring event shall include the measured background level and the maximum instrument reading measured at each pressure relief device.

(iii) The dates replacement rupture disks were installed following a pressure release event, if applicable.

(iv) An estimate of the mass quantity of total HAP listed in Table 1 of this subpart emitted during the pressure release event and the method used for determining this quantity.

(v) The source, nature and cause of the pressure release event, including an identification of the affected pressure relief device(s) and a statement noting whether the event resulted from the same cause(s) identified following a previous pressure release event.

(vi) The corrective measures identified to prevent future such pressure release events, or an explanation of why corrective measures are not necessary.

(vii) The actions taken to prevent this pressure release event.

(viii) Records of the corrective measures implemented, including a description of the corrective measure(s) completed within the first 45 days following a pressure release event, and, if applicable, the implementation schedule for planned corrective measures to be implemented subsequent to the first 45 days following the pressure release event, including proposed commencement and completion dates. (6) Records of the number of pressure release events during each calendar year and the number of those events for which the cause was determined to be a force majeure event. Keep these records for the current calendar year and the past 5 calendar years.

(7)(i) For pressure tank closure devices, as specified in § 63.7895(d)(4), keep records of each release to the atmosphere, including the information specified in paragraphs (a)(7)(iii)(A) through (G) of this section.

(ii) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in § 63.7927(a)(2), and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in § 63.1014(c) or § 63.1033(c), keep records of each release to the atmosphere, including the information specified in paragraphs (a)(7)(iii)(A) though (G) of this section.

(iii)(A) The source, nature, and cause of the release.

(B) The date, time, and duration of the release.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such release.

(F) Hourly records of whether the bypass flow indicator specified under § 63.7927(a)(2)(i) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(G) Where a seal mechanism is used to comply with § 63.7927(a)(2)(ii), hourly records of flow are not required. In such cases, you must record that the monthly visual inspection of the seals or closure mechanism has been done and record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

(8) A record of the fluid level at the beginning and end of each maintenance period during which the tank is subject to § 63.7925(b)(3).

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

30. Section 63.7956 is amended by adding paragraph (c)(5) to read as follows:

* * * * *

(c) * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 31. Section 63.7957 is amended by:

■ a. Adding in alphabetical order a definition for "Bypass";

■ b. Revising the definition of "Deviation";

■ c. Adding in alphabetical order definitions for "Force majeure", "Pressure release actuation event", and "Pressure relief device or valve";

■ d. Revising the definition of "Process vent"; and

■ e. Removing the definition of "Safety device".

The additions and revisions read as follows:

§ 63.7957 What definitions apply to this subpart?

* * * * *

Bypass means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation, (including any operating limit), or work practice standard in this subpart regardless of whether or not such failure is permitted by this subpart.

* * * * *

Force majeure event means a release of HAP directly to the atmosphere from a pressure relief device that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the Site Remediation unit (*e.g.,* external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the Site Remediation affected source that impacts the Site Remediation affected source's ability to operate.

* * * * *

Pressure release actuation event means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are

actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

Process vent means any open-ended pipe, stack, duct, or other opening intended to allow the passage of gases, vapors, or fumes to the atmosphere and this passage is caused by mechanical means (such as compressors, vacuum-producing systems or fans) or by process-related means (such as volatilization produced by heating). For the purposes of this subpart, a process vent is neither a pressure relief device (as defined in this section) nor a stack, duct or other opening used to exhaust combustion products from a boiler, furnace, heater, incinerator, or other combustion device.

* * * * *

■ 32. Table 3 to subpart GGGGG of part 63 is revised to read as follows:

Table 3 to Subpart GGGGG of Part 63—Applicability of General Provisions to Subpart GGGGG

As stated in § 63.7940, you must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension GP apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved]		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date. For 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved]		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)–(2)	Operation & Maintenance		No, see § 63.7935(b).
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).		No, see § 63.7935(c).
§ 63.6(f)(1)	Compliance Except During SSM		No, see § 63.7935(b).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/Visible Emissions (VE) Standards.	Requirements for opacity and visible emissions limits	No. No opacity standards.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with final rule.	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for Conducting Initial Performance Testing and Other Compliance Demonstrations. Must conduct 180 days after first subject to final rule.	Yes.
§ 63.7(a)(3)	CAA Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: Test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. Not a violation to exceed standard during SSM.	No, see § 63.7941(b)(2).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least one hour each. Compliance is based on arithmetic mean of three runs. Conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report. Must submit performance test data 60 days after end of test with the Notification of Compliance Status. Keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply	Yes.
§ 63.8(a)(3)	[Reserved]		

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. If more than one monitoring system on an emissions point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Monitoring System Operation	Operate and maintain system as specified in § 63.6(e)(1)	No, see § 63.7935(b).
§ 63.8(c)(1)(ii)	Monitoring System Repair	Keep part for routine repairs available	Yes.
§ 63.8(c)(1)(iii)	Monitoring System SSM Plan	Develop an SSM Plan for the monitoring system	No, see § 63.7935(h)(1).
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emissions and parameter measurements. Must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No.
§ 63.8(c)(4)(i)–(ii)	Continuous Monitoring System (CMS) Requirements.	COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes. However, COMS are not applicable. Requirements for CPMS are listed in §§ 63.7900 and 63.7913.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No.
§ 63.8(c)(6)	CMS Requirements	Zero and High level calibration check requirements	Yes. However requirements for CPMS are addressed in § 63.7927.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc. Must keep quality control plan on record for 5 years. Keep old versions for 5 years after revisions.	Yes.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	No.
§ 63.8(g)(1)–(4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points. CEMS 1-hour averages computed over at least four equally spaced data points.	Yes. However, COMS are not applicable. Requirements for CPMS are addressed in §§ 63.7900 and 63.7913.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No.
§ 63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications.	Submit notification 120 days after effective date. Notification of intent to construct/reconstruct; Notification of commencement of construct/reconstruct; Notification of startup. Contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation. Notification using COMS data. Notification that exceeded criterion for relative accuracy.	Yes. However, there are no opacity standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	Contents. Due 60 days after end of performance test or other initial compliance demonstration, except for opacity/VE, which are due 30 days after. When to submit to Federal vs. State authority.	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension. When to submit to Federal vs. State authority. Procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements. Keep all records readily available. Keep for 5 years.	Yes.
§ 63.10(b)(2)(i) and (ii)	Records related to SSM	Exceedance of emission limit during startup, shutdown or malfunction.	No, for new sources for which initial startup is after September 3, 2019. Yes, for all other affected sources before January 7, 2021, and No thereafter.
§ 63.10(b)(2)(iii)	Maintenance Records	Maintenance on air pollution control equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Records related to SSM	Actions during SSM.	No, for new sources for which initial startup is after September 3, 2019. Yes, for all other affected sources before January 7, 2021, and No thereafter.
§ 63.10(b)(2)(vi) and (x-xi)	CMS Records	Malfunctions, inoperative, out-of-control. Calibration checks. Adjustments, maintenance.	Yes.

Citation	Subject	Brief description	Applies to subpart GGGGG
§ 63.10(b)(2)(vii)–(ix)	Records	Measurements to demonstrate compliance with emissions limitations. Performance test, performance evaluation, and visible emissions observation results. Measurements to determine conditions of performance tests and performance evaluations.	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test	No.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)	Records	Additional Records for CMS	No.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	No, see § 63.7951(b)(4).
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEM on a unit Written copy of performance evaluation Three copies of COMS performance evaluation.	Yes. However, COMS are not applicable.
§ 63.10(e)(3)	Reports	Excess Emissions Reports	No.
§ 63.10(e)(3)(i–iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations). Provision to request semiannual reporting after compliance for one year. Submit report by 30th day following end of quarter or calendar half. If there has not been an exceedance or excess emissions (now defined as deviations), report contents is a statement that there have been no deviations.	No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports	Must submit report containing all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.
§ 63.10(e)(3)(vi–viii)	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMSs (now called deviations). Requires all of the information in §§ 63.10(c)(5–13) and 63.8(c)(7–8).	No.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Control and work practice requirements.	Requirements for flares and alternative work practice for equipment leaks.	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent	Yes, only applicable to those reports not required to be submitted electronically.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

[FR Doc. 2020–05896 Filed 7–9–20; 8:45 am]

BILLING CODE 6560–50–P

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: March 5, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

For the reason stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart S—Kentucky

■ 2. Section 52.920(c), Table 2, is amended under "Reg 6—Standards of Performance for Existing Affected Facilities" by revising the entry for "6.21" and under "Reg 7—Standards of Performance for New Affected Facilities" by revising the entry for "7.20" to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
*	*	*	*	*	* *
Reg 6—Standards of Performance for Existing Affected Facilities					
*	*	*	*	*	* *
6.21	Standard of Performance for Existing Gasoline Loading Facilities at Bulk Terminals.	3/11/2021	[Insert citation of publication].	6/19/2019	Except for the phrase "or an alternate procedure approved by the District" in subsection 3.6.4.2.
*	*	*	*	*	* *
Reg 7—Standards of Performance for New Affected Facilities					
7.20	Standard of Performance for New Gasoline Loading Facilities at Bulk Plants.	3/11/2021	[Insert citation of publication].	6/19/19	Except for the phrase "or an alternate procedure approved by the District" in subsection 3.11.1.2.
*	*	*	*	*	* *

* * * * *

[FR Doc. 2021–05049 Filed 3–10–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0121; FRL–10021–07–Region 9]

Air Plan Approval; California; South Coast Air Quality Management District; Ventura County Air Pollution Control District; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on February 24, 2021. That rule approved South Coast Air Quality Management District Rule 1168 and Ventura County Air Pollution Control District Rule 74.20 as revisions to the California State Implementation Plan (SIP).

DATES: This correction is effective on March 26, 2021.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3024 or by email at *lazarus.arnold@epa.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2021–02909 appearing on page 11131 in the **Federal Register** of Wednesday, February 24, 2021, the following corrections are made:

§ 52.220 [Corrected]

■ 1. On page 11131, in the second column, in part 52, instruction 2, "Section 52.220 is amended by adding paragraphs (c)(362)(i)(B)(*3*), (c)(429)(i)(A)(*7*), (c)(518)(i)(C), and (c)(545) to read as follows:" Is corrected to read "Section 52.220 is amended by adding paragraphs (c)(362)(i)(B)(*3*), (c)(429)(i)(A)(*7*), (c)(518)(i)(D), and (c)(545) to read as follows:"

■ 2. On page 11131, at the top of the third column, "(C) South Coast Air Quality Management District." is corrected to read "(D) South Coast Air Quality Management District."

Dated: March 4, 2021.

Deborah Jordan

Acting Regional Administrator, Region IX.

[FR Doc. 2021–04987 Filed 3–10–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0094; FRL–10019–05–OAR]

RIN 2060–AU98

Court Vacatur of Exemption From Emission Standards During Periods of Startup, Shutdown, and Malfunction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is amending the Code of Federal Regulations (CFR) to reflect a court order regarding the General Provisions for National Emissions Standards for Hazardous Air Pollutants (NESHAP) issued on

December 19, 2008, by the United States Court of Appeals for the District of Columbia Circuit (the court). The court vacated two provisions in the General Provisions that exempted sources from hazardous air pollutant (HAP) non-opacity and opacity emission standards during periods of startup, shutdown, and malfunction (SSM). The court held that under the Clean Air Act (CAA), emissions standards or limitations must be continuous in nature and that the SSM exemptions in these two provisions violate this requirement. This ministerial action revises these two NESHAP General Provisions in the CFR to conform to the court's order.

DATES: This final rule is effective on March 11, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0094. All documents in the docket are listed in *https://www.regulations.gov/*. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. With the exception of such material, publicly available docket materials are available electronically in *https://www.regulations.gov/*. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets* or call the Public Reading Room at (202) 566–1744 or the EPA Docket Center at (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Lisa Conner, Sector Policies and Programs Division (D205–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5060; fax number: (919) 541–4991; email address: *conner.lisa@epa.gov*. You may also consult your state or local permitting representative or the appropriate EPA Regional office representative.

SUPPLEMENTARY INFORMATION:

Organization of this document. The information in this preamble is organized as follows:

I. Why is the EPA issuing this final rule?
II. Background
III. Which provisions are being amended?
IV. Statutory and Executive Order Reviews

I. Why is the EPA issuing this final rule?

This action is amending the CFR to reflect the 2008 court decision in *Sierra Club* v. *EPA* vacating 40 CFR 63.6(f)(1) and (h)(1). Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B) provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for amending these provisions without prior proposal and opportunity for public procedures because the correction of the CFR is a ministerial act to effectuate the court order and public notice and comment is unnecessary and would serve no useful purpose. Removal of the two SSM exemptions in the General Provisions of the NESHAP at 40 CFR 63.6(f)(1) and (h)(1) has no legal effect beyond fulfilling the court's vacatur in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008) and is ministerial in nature. The court issued the mandate for its decision on October 16, 2009, at which point the vacatur became effective.

II. Background

The NESHAP program implementing requirements in section 112 of the CAA regulates over 100 industrial source categories that emit HAP. The NESHAP regulations applicable to specific source categories are organized by subparts within part 63 of 40 CFR.[1] As a component of 40 CFR part 63, the EPA established subpart A which contains the General Provisions and, when incorporated by reference within a specific source category NESHAP, eliminates unnecessary repetition of general information and requirements that often apply (*e.g.,* emission testing, monitoring, recordkeeping, and reporting provisions). As a result, the General Provisions contain requirements that are general in nature and apply only if the source category-specific NESHAP subpart states that some (or all) of the subpart A requirements apply. *See* 59 FR 12408, 12408/3 (March 16, 1994) ("1994 Rule"). The General Provisions have the legal force and effect of emission standards when incorporated by reference into a NESHAP. 40 CFR 63.1(a)(4).

Beginning in 2002, the Sierra Club and various other environmental groups filed petitions seeking judicial review of the SSM exemptions in the NESHAP General Provisions in 40 CFR part 63, subpart A. In response to these petitions, the court vacated portions of two provisions governing the emissions of HAP during periods of SSM. *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). Specifically, the court vacated the SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1) of the General Provisions. When incorporated by reference into the NESHAP regulations for specific source categories, these two provisions exempted sources from the requirement to comply with the otherwise applicable emission standards during periods of SSM. The court held that under CAA section 302(k), emissions standards or limitations issued pursuant to section 112 of the CAA must be continuous in nature and that the SSM exemptions in 40 CFR 63.6(f)(1) and (h)(1) violate this CAA requirement.

As noted above, the court mandated its decision on October 16, 2009, making it immediately effective. However, 40 CFR part 63, subpart A, has not yet been amended in the record. Since then, the EPA has been codifying the court decision by modifying SSM exemptions in individual NESHAP as they are opened for review and modification.

III. Which provisions are being amended?

This final rule amends the NESHAP General Provisions at 40 CFR part 63, subpart A, to remove universally the SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1) from non-opacity and opacity emission standards, respectively, by deleting the phrase "except during periods of startup, shutdown, and malfunction." As explained above, removal of the exemptions corrects the CFR to conform to the court's order in *Sierra Club* v. *EPA* and so is ministerial in nature and has no legal effect. The legal effect of the vacatur occurred upon the court's

[1] A list of the source categories regulated in the NESHAP program can be found at: *https://www.epa.gov/stationary-sources-air-pollution/national-emission-standards-hazardous-air-pollutants-neshap-9*.

decision in 2008 and subsequently in the court's mandate issued in 2009.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This regulatory action is ministerial in nature as it codifies a court issued mandate vacating regulatory provisions. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The action presents no additional burden on implementing authorities beyond existing requirements. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is ministerial in nature as it codifies a court issued mandate vacating regulatory provisions and does not have any impact on human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule in section I of this preamble, including the basis for that finding.

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, General Provisions, Hazardous substances.

Jane Nishida,

Acting Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Revise § 63.6(f)(1) and (h)(1) to read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(f) * * *

(1) *Applicability.* The non-opacity emission standards set forth in this part shall apply at all times except as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the non-opacity emission standards set forth in this part, then that emission point must still be required to comply with the non-opacity emission standards and other applicable requirements.

* * * * *

(h) * * *

(1) *Applicability.* The opacity and visible emission standards set forth in this part must apply at all times except as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the opacity and visible emission standards set forth in this part, then that emission point shall still be required to comply with the opacity and visible emission standards and other applicable requirements.

* * * * *

[FR Doc. 2021–04936 Filed 3–10–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0314, EPA–HQ–OAR–2019–0312, EPA–HQ–OAR–2019–0313, EPA–HQ–OAR–2017–0670, EPA–HQ–OAR–2017–0668, EPA–HQ–OAR–2017–0669; FRL–10006–70–OAR]

RIN 2060–AT49 and RIN 2060–AT72

NESHAP: Surface Coating of Automobiles and Light-Duty Trucks; Miscellaneous Metal Parts and Products; Plastic Parts and Products; Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Metal Furniture Residual Risk and Technology Reviews

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action on the residual risk and technology reviews (RTRs) conducted for the Surface Coating of Automobiles and Light-Duty Trucks (ALDT); Surface Coating of Miscellaneous Metal Parts and Products (MMPP); and the Surface Coating of Plastic Parts and Products (PPP) source categories regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address emissions during periods of startup, shutdown, and malfunction (SSM); electronic reporting of performance test results and compliance reports; the addition of EPA Method 18 and updates to several measurement methods; and the addition of requirements for periodic performance testing. Several miscellaneous technical amendments were also made to improve the clarity of the rule requirements. We are making no revisions to the numerical emission limits based on these risk analyses or technology reviews. This notice also finalizes technical corrections to the NESHAP for Surface Coating of Large Appliances; NESHAP for Printing, Coating, and Dyeing of Fabrics and Other Textiles; and NESHAP for Surface Coating of Metal Furniture.

DATES: This final rule is effective on July 8, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 8, 2020. The incorporation by reference of certain other publications listed in the rule was approved by the Director of the Federal Register as of June 25, 2004.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0314 for 40 Code of Federal Regulations (CFR) part 63, subpart IIII (ALDT Docket); Docket ID No. EPA–HQ–OAR–2019–0312 for 40 CFR part 63, subpart MMMM, Surface Coating of MMPP Docket; and Docket ID No. EPA–HQ–OAR–2019–0313 for 40 CFR part 63, subpart PPPP, Surface Coating of PPP Docket. All documents in the dockets are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action for the Surface Coating of ALDT NESHAP, the Surface Coating of MMPP NESHAP, the Surface Coating of PPP NESHAP, and the technical corrections to the NESHAP for Surface Coating of Large Appliances and the NESHAP for Surface Coating of Metal Furniture contact Ms. J. Kaye Whitfield, Minerals and Manufacturing Group, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2509; fax number: (919) 541–4991; and email address: *whitfield.kaye@epa.gov.* For questions about the technical corrections to the Printing, Coating, and Dyeing of Fabrics and Other Textiles, contact Ms. Paula Hirtz, Minerals and Manufacturing Group, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2618; fax number: (919) 541–4991; and email address: *hirtz.paula@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Chris Sarsony, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4843; fax number: (919) 541–0840; and email address: *sarsony.chris@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ALDT Automobile and Light-Duty Trucks
APA Administrative Procedures Act
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
HQREL hazard quotient reference exposure limit
IBR incorporation by reference
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
mg/m^3 milligrams per cubic meter
MIBK methyl isobutyl ketone
MIR maximum individual risk
MMPP Miscellaneous Metal Parts and Products
NAAQS National Ambient Air Quality Standard
NEI National Emission Inventory
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PB–HAP persistent and bioaccumulative HAP
PPP Plastic Parts and Products
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compound

Background information. On November 1, 2019, the EPA proposed revisions to the Surface Coating of ALDT NESHAP, the Surface Coating of MMPP NESHAP, and the Surface Coating of PPP NESHAP based on our RTR (84 FR 58936). In this action, we are finalizing decisions and revisions for these rules. We summarize some of the more significant comments we timely received regarding the proposed rules and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the "Summary of Public Comments and Responses for the Risk and Technology Reviews for the NESHAP for Surface Coating of ALDT; Surface Coating of MMPP; and Surface Coating of PPP," in Docket ID No. EPA–HQ–OAR–2019–0314 for 40 CFR part 63, subpart IIII, Surface Coating of ALDT, Docket ID No. EPA–HQ–OAR–2019–0312 for 40 CFR part 63, subpart MMMM, Surface Coating of MMPP, and Docket ID No. EPA–HQ–OAR–2019–0313 for 40 CFR part 63, subpart PPPP, Surface Coating of PPP. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket for each subpart.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What are the source categories and how do the NESHAP regulate their HAP emissions?
C. What changes did we propose for the source categories in our November 1, 2019, RTR proposal?
III. What is included in these final rules?
A. What are the final rule amendments based on the risk reviews for these source categories?
B. What are the final rule amendments based on the technology reviews for these source categories?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to these NESHAP?
E. What are the effective and compliance dates of the standards?
F. What are the requirements for submission of performance test data to the EPA?
IV. What is the rationale for our final decisions and amendments for these source categories?
A. Residual Risk Reviews
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C. Electronic Reporting Provisions
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E. Ongoing Compliance Demonstrations
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
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D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
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VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP source category	NAICS code [1]	Regulated entities
Surface Coating of ALDT	336111, 336112, 336211	ALDT assembly plants, producers of automobile and light-duty truck bodies.
Surface Coating of MMPP	335312, 336111, 336211, 336312, 33632, 33633, 33634, 33637, 336399.	Automobile parts (engine parts, vehicle parts and accessories, brakes, axles, etc.).
	331316, 331524, 332321, 332323	Extruded aluminum, architectural components, rod, and tubes.
	33312, 333611, 333618	Heavy equipment (tractors, earth moving machinery).
	332312, 332722, 332813, 332991, 332999, 334119, 336413, 339999.	Job shops (making any of the products from the MMPP segments).
	33612, 336211	Large trucks and buses.
	331319, 331422, 335929	Magnet wire.
	332311	Prefabricated metal buildings, carports, docks, dwellings, greenhouses, panels for buildings.
	33242, 81131, 322214, 326199, 331513, 332439	Metal drums, kegs, pails, shipping containers.
	331111, 33121, 331221, 331511	Metal pipe and foundry (plate, tube, rods, nails, spikes, etc.).
	33651, 336611, 482111	Rail transportation (brakes, engines, freight cars, locomotives).
	3369, 331316, 336991, 336211, 336112, 336213, 336214, 336399.	Recreational vehicles (motorcycles, motor homes, semitrailers, truck trailers).
	326291, 326299	Rubber to metal products (engine mounts, rubberized tank tread, harmonic balancers.
	332311, 332312	Structural steel (joists, railway bridge sections, highway bridge sections).
	336212, 336999, 33635, 56121, 8111. 56211	Miscellaneous transportation related equipment and parts.
Surface Coating of PPP	337214	Office furniture, except wood.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION—Continued

NESHAP source category	NAICS code [1]	Regulated entities
	32614, 32615	Plastic foam products (*e.g.,* pool floats, wrestling mats, life jackets).
	326199	Plastic products not elsewhere classified (*e.g.,* name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders).
	333313	Office machines.
	33422	Radio and television broadcasting and communications equipment (*e.g.,* cellular telephones).
	336211	Motor vehicle body manufacturing.
	336399	Motor vehicle parts and accessories.
	336212	Truck trailer manufacturing.
	336213	Motor home manufacturing.
	336214	Travel trailer and camper manufacturing.
	336999	Transportation equipment not elsewhere classified (*e.g.,* snowmobile hoods, running boards, tractor body panels, personal watercraft parts).
	339111, 339112	Medical equipment and supplies.
	33992	Sporting and athletic goods.
	33995	Signs and advertising specialties.
	339999	Manufacturing industries not elsewhere classified (*e.g.,* bezels, consoles, panels, lenses).
Surface Coating of Large Appliances.	335221	Household cooking equipment.
	335222	Household refrigerators and freezers.
	335224	Household laundry equipment.
	335228	Other major household appliances.
	333312	Commercial laundry, dry cleaning, and pressing equipment.
	333415	Air-conditioners (except motor vehicle), comfort furnaces, and industrial refrigeration units and freezers (except heat transfer coils and large commercial and industrial chillers).
	333319	Other commercial/service industry machinery, *e.g.,* commercial dishwashers, ovens, and ranges, etc.
Printing, Coating, and Dyeing of Fabrics and Other Textiles.	31321	Broadwoven fabric mills.
	31322	Narrow fabric mills and Schiffli machine embroidery.
	313241	Weft knit fabric mills.
	313311	Broadwoven fabric finishing mills.
	313312	Textile and fabric finishing (except broadwoven fabric) mills.
	313320	Fabric coating mills.
	314110	Carpet and rug mills.
	326220	Rubber and plastics hoses and belting and manufacturing.
	339991	Gasket, packing, and sealing device manufacturing.
Surface Coating of Metal Furniture.	337124	Metal household furniture manufacturing.
	337214	Nonwood office furniture manufacturing.
	337127	Institutional furniture manufacturing.
	337215	Showcase, partition, shelving, and locker manufacturing.
	337127	Institutional furniture manufacturing.
	332951	Hardware manufacturing.
	332116	Metal stamping.
	332612	Wire spring manufacturing.
	335121	Residential electric lighting fixture manufacturing.
	335122	Commercial, industrial, and institutional electric lighting fixture manufacturing.
	339111	Laboratory furniture manufacturing.
	339114	Dental equipment manufacturing.
	81142	Reupholstery and furniture repair.
	922140	State correctional institutions that apply coatings to metal furniture.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is

affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/surface-coating-automobiles-and-light-duty-trucks-national-emission, https://www.epa.gov/stationary-sources-air-pollution/surface-coating-miscellaneous-metal-parts-and-products-national,* and *https://www.epa.gov/stationary-sources-air-pollution/surface-coating-plastic-parts-and-products-national-emission.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at these same websites.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 8, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that: (1) Reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; (2) enclose systems or processes to eliminate emissions; (3) collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; (4) are design, equipment, work practice, or operational standards; or (5) any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see the proposal preamble (84 FR 58936, November 1, 2019) and the memorandum, *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* December

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

14, 2017, in the ALDT Docket, MMPP Docket, and PPP Docket.

B. What are the source categories and how do the NESHAP regulate their HAP emissions?

1. What is the surface coating of ALDT source category and how does the current NESHAP regulate its HAP emissions?

The NESHAP for the ALDT source category was promulgated on April 26, 2004 (69 FR 22602), and is codified at 40 CFR part 63, subpart IIII. Technical corrections and clarifying amendments were promulgated on December 22, 2006 (71 FR 76922), and April 24, 2007 (72 FR 20227). The ALDT NESHAP applies to any affected source that is a major source, is located at a major source, or is part of a major source of HAP emissions. The affected source is any coating operation that applies topcoats to new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks and/or coatings to other new motor vehicle bodies or body parts for other new motor vehicles; parts intended for use in new automobiles, new light-duty trucks, or other new motor vehicles; or aftermarket repair or replacement parts for automobiles, light-duty trucks, or other motor vehicles. The source category covered by this MACT standard currently comprises 43 facilities.

The ALDT NESHAP (40 CFR 63.3176) defines an "automobile" as "a motor vehicle designed to carry up to eight passengers, excluding vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property," and defines "light-duty truck" as "vans, sport utility vehicles, and motor vehicles designed primarily to transport light loads of property with gross vehicle weight rating of 8,500 lbs [pounds] or less."

The ALDT NESHAP defines a "coating" as "a material that is applied to a substrate for decorative, protective or functional purposes. Such materials include, but are not limited to, paints, sealants, caulks, inks, adhesives, primers, deadeners, and maskants. Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances are not considered coatings for the purposes of this subpart." (40 CFR 63.3176).

This source category is further described in the November 1, 2019, RTR proposal. See 84 FR 58941.

The primary HAP emitted from ALDT surface coating operations are organic HAP and include toluene, xylene, glycol ethers, methyl isobutyl ketone (MIBK), ethyl benzene, and methanol. The HAP emissions are from coating application and drying and curing ovens in the ALDT surface coating operations. Some emissions occur from the cleaning of spray booths and equipment. In most cases, HAP emissions from surface preparation, storage, and handling are relatively small (*i.e.,* not quantifiable) for this source category. Although inorganic HAP are reported components of coatings, no inorganic HAP are emitted because of the use of high efficiency spray equipment and filters on coating spray application operations.

The NESHAP specifies numerical emission limits for existing sources and for new and reconstructed sources for organic HAP emissions from (1) electrodeposition primer, primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive operations plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations; (2) primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive operation plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations; (3) adhesives and sealers, other than glass bonding adhesive materials; and (4) deadener materials.

The specific organic HAP emission limits are in 40 CFR 63.3090 (for new and reconstructed sources) and 40 CFR 63.3091 (for existing sources), and the operating limits are in 40 CFR 63.3093. The emission limits and operating limits are summarized in Tables 2 and 3, respectively, of the memorandum titled *Technology Review for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category,* in the ALDT Docket.

Compliance with the ALDT NESHAP emission limits can be achieved using several different options, including a compliant material option, an emission rate without add-on controls option (emissions averaging option), and an emission rate with add-on controls option. For bake ovens used to cure electrodeposition primers, an alternative is to capture the emissions and duct them to a control device having a destruction or removal efficiency of at least 95 percent. Facilities that have multiple paint lines may choose to group operations from two or more paint lines together to demonstrate compliance, or to make a separate compliance demonstration for the operations from each paint line.

All ALDT facilities must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, and cleaning materials used in, and waste materials generated by, the coating operations. The plan must specify practices and procedures to ensure that a set of minimum work practices specified in the NESHAP are implemented.

Those ALDT facilities using add-on controls to comply with the NESHAP must also comply with site-specific operating limits for the emission capture and control system. These operating limits are established during the compliance test for the emission capture system and add-on control device. Alternatively, emission capture systems can meet design and air flow specifications to qualify as a permanent total enclosure with 100-percent capture efficiency.

2. What is the surface coating of MMPP source category and how does the current NESHAP regulate its HAP emissions?

The MMPP NESHAP was promulgated on January 2, 2004 (69 FR 130), and is codified at 40 CFR part 63, subpart MMMM. Technical corrections to the final rule were published on April 26, 2004 (69 FR 22602), and December 22, 2006 (71 FR 76922). The MMPP NESHAP applies to owners or operators of metal parts and products surface coating operations at facilities that are major sources of HAP. The source category covered by this MACT standard currently comprises 368 facilities.

The MMPP include, but are not limited to, metal components of the following types of products as well as the products themselves: Motor vehicle parts and accessories, bicycles and sporting goods, recreational vehicles, extruded aluminum structural components, railroad cars, heavy-duty trucks, medical equipment, lawn and garden equipment, electronic equipment, magnet wire, steel drums, industrial machinery, metal pipes, and numerous other industrial, household, and consumer products. The MMPP NESHAP does not apply to any surface coating or coating operation that meets the applicability criteria of any one of 11 other surface coating NESHAP, *e.g.,* surface coating of metal components of wood furniture (subpart JJ of 40 CFR part 63), surface coating of metal components of large appliances (subpart NNNN of 40 CFR part 63), and surface coating of metal components of ALDT

(subpart IIII of 40 CFR part 63). See 40 CFR 63. 3881(c) for a list of exclusions to the MMPP source category.

This source category is further described in the November 1, 2019, RTR proposal. See 84 FR 58942.

The primary HAP emitted from MMPP surface coating operations are organic HAP and include xylenes, toluene, glycol ethers, ethyl benzene, MIBK, methanol, ethylene glycol, and dimethyl phthalate. The majority of organic HAP emissions can be attributed to the application, drying, and curing of coatings.

Inorganic HAP emissions were considered in the development of the MMPP NESHAP, and the EPA determined that inorganic HAP emissions would be very low based on the coating application techniques in place at the time of the rule development. Given the combination of very low usage of coatings containing inorganic HAP in this source category, and the current and expected continued use of controls (dry filters and waterwash systems on spray booths and high efficiency equipment) to reduce overspray emissions, the EPA concluded that levels of inorganic HAP emissions did not warrant federal regulation because those regulations would increase regulatory burden but not be expected to result in additional emissions reduction.

The MMPP NESHAP establishes the organic HAP emissions limits for existing sources and for new and reconstructed sources for organic HAP emissions for five subcategories. The five subcategories are (1) general use coating, (2) high performance coating, (3) magnet wire coating, (4) rubber-to-metal coating, and (5) extreme performance fluoropolymer coating.

Compliance can be demonstrated with a compliant coatings option, where all coatings used have organic HAP contents that individually meet the organic HAP emissions limit, and all thinners and cleaning materials contain no organic HAP; an emission rate without add-on controls option, where the organic HAP emission rate, calculated as a rolling 12-month emission rate and determined on a monthly basis, is equal to or less than the organic HAP emissions limit; or an emission rate with add-on controls option, where the organic HAP emission rate, calculated as a rolling 12-month emissions rate and determined on a monthly basis, taking into account the emissions reduction achieved through the use of one or more emissions capture and control devices, is equal to or less than the organic HAP emissions limit. A facility using the add-on control option must also comply with work practice standards to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, cleaning materials, and waste materials associated with the coating operation(s) and must also comply with operating limits for the emissions capture systems and add-on control devices.

The specific organic HAP emission limits for each coating subcategory can be found in 40 CFR 63.3890 and the operating limits in 40 CFR 63.3892. The emission limits and operating limits are summarized in Tables 4 and 5, respectively, of the memorandum titled *Technology Review for Surface Coating Operations in the Miscellaneous Metal Parts and Products Category.*

3. What is the surface coating of PPP source category and how does the current NESHAP regulate its HAP emissions?

The NESHAP for the PPP source category was promulgated on April 19, 2004 (69 FR 20968), and is codified at 40 CFR part 63, subpart PPPP. Technical corrections to the final rule were published on December 22, 2006 (71 FR 76922), and April 24, 2007 (72 FR 20227). The PPP NESHAP applies to owners or operators of PPP surface coating operations at facilities that are major sources of HAP. The PPP include, but are not limited to, plastic components of the following types of products as well as the products themselves: Motor vehicle parts and accessories for automobiles, trucks, recreational vehicles; sporting and recreational goods; toys; business machines; laboratory and medical equipment; and household and other consumer products. The PPP NESHAP does not apply to the surface coating or coating operations that meet the applicability criteria of any of 11 other surface coating NESHAP, *e.g.,* surface coating of plastic components of wood furniture (subpart JJ of 40 CFR part 63), surface coating of plastic components of large appliances (subpart NNNN of 40 CFR part 63), and surface coating of plastic components of ALDT (subpart IIII of 40 CFR part 63). See 40 CFR 63. 4481(c) for a list of exclusions to the PPP source category.

This source category is further described in the November 1, 2019, RTR proposal. See 84 FR 58943.

The primary HAP emitted from PPP surface coating operations are organic HAP and, based on the 2011 National Emission Inventory (NEI), include xylene, toluene, MIBK, ethylbenzene, styrene, glycol ethers, and methanol, in order of decreasing emissions. These compounds account for about 96 percent of the nationwide HAP emissions from this source category, based on an analysis of the NEI. The source category covered by this MACT standard currently comprises 125 facilities.

No inorganic HAP are currently associated with the coatings used in this source category, based on the data in the NEI.

The PPP NESHAP specifies numerical emission limits for existing sources and for new and reconstructed sources for organic HAP emissions. The final rule contains four subcategories: (1) General use coating, (2) thermoplastic olefin coating, (3) automotive lamp coating, and (4) assembled on-road vehicle coating.

Compliance can be demonstrated with a compliant material option, where the HAP content of each coating used is less than or equal to the applicable organic HAP emissions limit and each thinner, additive, and cleaning material uses no organic HAP; an emission rate without add-on controls option, where the organic HAP emission rate, calculated as a rolling 12-month emission rate and determined on a monthly basis, is equal to or less than the organic HAP emissions limit; or an emission rate with add-on controls option, where the organic HAP emission rate, calculated as a rolling 12-month emissions rate and determined on a monthly basis, taking into account the emissions reduction achieved through the use of one or more emissions capture and control devices, is equal to or less than the organic HAP emissions limit. A facility using the add-on control option must also comply with work practice standards to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners, cleaning materials, and waste materials associated with the coating operation(s) and must also comply with operating limits for the emissions capture systems and add-on control devices.

The specific organic HAP emission limits for each coating subcategory can be found in 40 CFR 63.4490 and the operating limits in 40 CFR 63.4492. The organic HAP emission limits and operating limits are summarized in Tables 2 and 3, respectively, of the memorandum titled *Technology Review for the Plastic Parts and Products Surface Coating Operations Source Category.*

4. What are the surface coating of large appliances; printing, coating, and dyeing of fabrics and other textiles; and surface coating of metal furniture source categories and how do the current NESHAP regulate their HAP emissions?

The three source categories that are the subject of the technical corrections that are being finalized in this action are described in the **Federal Register** document for the final RTR rule amendments (84 FR 9590, March 15, 2019).

C. What changes did we propose for the source categories in our November 1, 2019, RTR proposal?

On November 1, 2019, the EPA published a proposed rule in the **Federal Register** for the Surface Coating of ALDT NESHAP, the Surface Coatings of MMPP NESHAP, and the Surface Coating of PPP NESHAP, 40 CFR part 63, subpart IIII, 40 CFR 63, subpart MMMM, and 40 CFR 63, subpart PPPP, respectively, that took into consideration the RTR analyses.

We proposed to find that after compliance with the current NESHAP (*i.e.,* MACT standards) the risks to public health from each of the source categories are acceptable, and that for each source category additional emission controls are not necessary to provide an ample margin of safety. Based on our technology review, we did not identify any cost-effective developments in practices, processes, or control technologies for any of the three surface coating source categories. Accordingly, we proposed no changes to the existing emission control requirements in subparts IIII, MMMM, and PPPP pursuant to the RTR analyses.

We proposed the following amendments to improve rule effectiveness, provide regulatory flexibility, and comply with a legal ruling:

- For each source category, a requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);
- for each source category, revisions to the SSM provisions of each NESHAP in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners and operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- for each source category, adding the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography," to measure and then subtract methane emissions from measured total gaseous organic mass emissions as carbon;
- for each source category, removing references to paragraph (d)(4) of the Occupational Safety and Health Administration (OSHA) Hazard Communication standard (29 CFR 1910.1200), which dealt with OSHA-defined carcinogens, and replacing that reference with a list of HAP that must be regarded as potentially carcinogenic based on the EPA guidelines;
- for each source category, a requirement to perform performance testing and reestablish operating limits no less frequently than every 5 years for sources that are using add-on controls to demonstrate compliance; and
- for each source category, IBR of alternative test methods and references to updated alternative test methods.

We also proposed several minor editorial and technical changes in each subpart, as well as technical corrections to three other recently promulgated RTRs for the following source categories: Surface Coating of Large Appliances NESHAP (40 CFR 63, subpart NNNN); Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP (40 CFR 63, subpart OOOO); and Surface Coating of Metal Furniture NESHAP (40 CFR 63, subpart RRRR).

III. What is included in these final rules?

This action finalizes the EPA's proposed determinations pursuant to the RTR provisions of CAA sections 112(d)(6) and (f)(2) for the Surface Coating of ALDT source category, the Surface Coatings of MMPP source category, and the Surface Coating of PPP source category. This action also finalizes other proposed changes to each NESHAP as proposed, including the following for each source category:

- A requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);
- revisions to the SSM provisions of each NESHAP;
- adding the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography," to measure and then subtract methane emissions from measured total gaseous organic mass emissions as carbon;
- replacing a reference to OSHA's Hazard Communication standard (29 CFR 1910.1200(d)(4)) with a list of HAP that must be regarded as potentially carcinogenic based on the EPA guidelines;
- adding a requirement for sources to perform periodic control device testing if they are using add-on controls to demonstrate compliance; and
- IBR of alternative test methods and references to updated alternative test methods.

We are finalizing, as proposed, several minor editorial and technical changes in each subpart, including technical corrections to the Surface Coating of Large Appliances NESHAP (40 CFR 63, subpart NNNN); Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP (40 CFR 63, subpart OOOO); and Surface Coating of Metal Furniture NESHAP (40 CFR 63, subpart RRRR).

A. What are the final rule amendments based on the risk reviews for these source categories?

This section describes the final amendments to the Surface Coating of ALDT NESHAP (40 CFR part 63, subpart IIII); the Surface Coating of Miscellaneous Metal Parts NESHAP (40 CFR part 63, subpart MMMM); and the Surface Coating of PPP NESHAP (40 CFR part 63, subpart PPPP) being promulgated pursuant to CAA section 112(f)(2). The EPA proposed no changes to these three subparts based on the risk reviews conducted pursuant to CAA section 112(f)(2). In this action, we are finalizing our proposed determination that, considering compliance with MACT, the public health risks from these three subparts are acceptable, and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not requiring additional emission controls under CAA section 112(f)(2) for any of the three subparts in this action.

B. What are the final rule amendments based on the technology reviews for these source categories?

We determined that there are no cost-effective developments in practices, processes, and control technologies that warrant revisions to the MACT standards for the Surface Coating of ALDT, Surface Coating of MMPP, and Surface Coating of PPP source categories. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6) for any of the three subparts in this action.

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the Surface Coating of ALDT NESHAP; the Surface Coating of MMPP NESHAP; and the Surface Coating of PPP NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

As detailed in section IV.A, B, and C of the November 1, 2019, proposal preamble, the ALDT NESHAP, MMPP NESHAP, and PPP NESHAP require that the standards apply at all times (see 40 CFR 63.3093(b), 63.3900(a)(2), and 63.4492(b), respectively), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). Table 2 to Subpart IIII of Part 63, Table 2 to Subpart MMMM of Part 63, and Table 2 to Subpart PPPP of Part 63 (General Provisions applicability tables) are being revised to change the specification of the requirements that apply during periods of SSM. We are eliminating or revising certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA is also making other harmonizing changes to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We have determined that facilities in these source categories can meet the applicable emission standards in the Surface Coating of ALDT NESHAP, the Surface Coating of MMPP NESHAP, and the Surface Coating of PPP NESHAP at all times, including periods of startup and shutdown. Therefore, the EPA has determined that no additional standards are needed to address emissions during these periods. The legal rationale and detailed changes for SSM periods that we are finalizing here are set forth in the November 1, 2019, preamble to the proposed rule. See 84 FR 58959 through 58963 for ALDT, 58971 through 58973 for MMPP, and 58980 through 58982 for PPP.

Further, the EPA is not finalizing standards for malfunctions. As discussed in section IV.A, B, and C of the November 1, 2019, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For these source categories, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.A, B, and C of the November 1, 2019, proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a facility could take in the unlikely event that a facility fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

We are finalizing revisions to the General Provisions tables to 40 CRF part 63, subparts IIII, MMMM, and PPPP, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction. Finally, we are finalizing our proposal to revise the Deviation Notification Report and related records as they relate to malfunctions. As discussed in detail in the proposal preamble, these revisions are consistent with the requirements in 40 CFR 63.3093(b), 63.3900(a)(2), and 63.4492(b) stating that the standards apply at all times.

We are finalizing a revision to the performance testing requirements at 40 CFR 63.3164(a)(1), 40 CFR 63.3964(a)(1), and 40 CFR 63.4564(a)(1). The final performance testing provisions prohibit performance testing during SSM as these conditions are not representative of steady state operating conditions. The final rules also require that operators maintain records to document that operating conditions during the tests represent steady state conditions.

D. What other changes have been made to these NESHAP?

These rules also finalize, as proposed, revisions to several other NESHAP requirements. We describe the revisions that apply to all the affected source categories in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners or operators of facilities in the Surface Coating of ALDT; Surface Coating of MMPP; and Surface Coating of PPP source categories submit electronic copies of certain required performance test reports through the EPA's Central Data Exchange (CDX) website using an electronic performance test report tool called the Electronic Reporting Tool (ERT). We also are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or Compliance and Emissions Data Reporting Interface (CEDRI) or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim.

For each subpart, we also are changing the format of references to test methods in 40 CFR part 60, appendix A to indicate where, in the eight sections of appendix A, each method is found.

We are finalizing amendments to 40 CFR 63.3166(b), 40 CFR 63.3966(b), and 40 CFR 63.4566(b) to add the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography," to measure and then subtract methane emissions from measured total gaseous organic mass emissions as carbon, when facilities are using EPA Method 25A to measure control device destruction efficiency.

For each subpart, we are finalizing the proposal to re-designate the list of organic HAP that must be used when a facility chooses to use the compliant material option (*i.e.,* for calculating total organic HAP content of a coating material present at 0.1 percent or greater by mass). To specify the applicable HAP, we are changing the rules to remove the references to paragraph (d)(4) of OSHA's Hazard Communication standard (29 CFR 1910.1200) and replace it with a new table in each subpart (Table 5 to 40 CFR part 63, subpart IIII; Table 5 to 40 CFR part 63, subpart MMMM; and Table 5 to 40 CFR part 63, subpart PPPP) that lists the applicable HAP. The organic HAP in these new tables are those HAP that were categorized in the EPA's *Prioritized Chronic Dose-Response Values for Screening Risk Assessments* (dated May 9, 2014) as a "human carcinogen," "probable human carcinogen," or "possible human carcinogen" according to *The Risk Assessment Guidelines of 1986* (EPA/

600/8–87/045, August 1987) [2] or as ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' or with ''suggestive evidence of carcinogenic potential'' according to the *Guidelines for Carcinogen Risk Assessment* (EPA/630/P–03/001F, March 2005).

We are including in the final rule for each subpart a requirement for facilities to conduct control device performance testing no less frequently than once every 5 years when using the emission rate with add-on controls compliance option. For facilities with title V permits that require comparable periodic testing prior to permit renewal, no additional testing is required, and we included provisions in the rule to allow facilities to harmonize the NESHAP testing schedule with a facility's current title V testing schedule.

1. Technical Amendments to the Surface Coating of ALDT NESHAP

We are revising the monitoring provisions for thermal and catalytic oxidizers, as proposed, to clarify that a thermocouple is part of the temperature sensor referred to in 40 CFR 63.3168(c)(3) for purposes of performing periodic calibration and verification checks.

We are adding, as proposed, a new paragraph 40 CFR 63.3130(p) and revising 40 CFR 63.3131(a) to allow that any records required to be maintained by 40 CFR part 63, subpart IIII that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. We are also adding clarification that this ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

We are amending 40 CFR 63.3166(b) to add the option of conducting EPA Method 18 of appendix A–6 to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and subtract methane emissions from total gaseous organic mass emissions as carbon when facilities are using EPA Method 25A.

In the final rule, as proposed, we are adding and updating test methods that are incorporated by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the voluntary consensus standards (VCS) and other methods described in the amendments to 40 CFR 63.14:

- ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, IBR approved for 40 CFR 63.3151(b);
- ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.3151(a)(2);
- ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for 40 CFR 63.3161(f)(1);
- ASTM D5066–91 (Reapproved 2017), Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis, IBR approved for 40 CFR 63.3161(g);
- ASTM D5965–02 (Reapproved 2013), Standard Test Methods for Specific Gravity of Coating Powders, IBR approved for 40 CFR 63.3151(b);
- ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using Helium Gas Pycnometer, IBR approved for 40 CFR 63.3161(f)(1);
- ASTM D6266–00a (Reapproved 2017), Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement), IBR approved for 40 CFR 63.3165(e); and
- EPA–450/3–88–018, Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations, IBR approved for 40 CFR 63.3130(c), 63.3161(d) and (g), 63.3165(e), and appendix A to subpart IIII of part 63.

2. Technical Amendments to the Surface Coating of MMPP NESHAP

We are amending 40 CFR 63.3966(b) to add the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and then subtract methane emissions from total gaseous organic mass emissions as carbon when facilities are using EPA Method 25A.

Current 40 CFR 63.3931 specifies how records must be maintained. We are adding clarification to this provision at 40 CFR 63.3931(a) that specifies the allowance to retain electronic records applies to all records that were submitted as reports electronically via the EPA's CEDRI. We are also adding text to the same provision clarifying that this ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

In the final rule, as proposed, we are adding and updating test methods that are incorporated by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the VCS and other methods described in the amendments to 40 CFR 63.14:

- ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, IBR approved for 40 CFR 63.3941(b)(4) and (c) and 63.3951(c);
- ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, IBR approved for 40 CFR 63.3951(c);
- ASTM Method D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.3961(j)(3);
- ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for 40 CFR 63.3941(b)(1);
- ASTM Method D5965–02 (Reapproved 2013), Standard Test Methods for Specific Gravity of Coating Powders, IBR approved for 40 CFR 3951(c); and
- ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using Helium Gas Pycnometer, IBR approved for 40 CFR 63.3941(b)(1).

3. Technical Amendments to the Surface Coating of PPP NESHAP

We are amending 40 CFR 63.4566(b)(4) to add the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and then subtract methane emissions from total gaseous organic mass emissions as carbon when facilities are using EPA Method 25A.

Current 40 CFR 63.4530 specifies records that must be maintained. We are adding clarification to this provision at 40 CFR 63.4530(a) that specifies the allowance to retain electronic records applies to all records that were submitted as reports electronically via the EPA's CEDRI. We are also adding text to the same provision clarifying that this ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and

[2] See *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

We are clarifying and harmonizing the general requirement in 40 CFR 63.4500(b) with the reporting requirement in 40 CFR 63.4520(a)(5), (6), and (7), and the recordkeeping requirement in 40 CFR 63.4530(h)(4).

In the final rule, as proposed, we are adding and updating test methods that are incorporated by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the following VCS described in the amendments to 40 CFR 63.14:

- ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, IBR approved for 40 CFR 63.4551(c);
- ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, IBR approved for 40 CFR 63.4551(c); and
- ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.4541(a)(2), and 63.4561(j)(3).

4. Technical Amendments to Other Subparts

We are revising the NESHAP for Surface Coating of Large Appliances (40 CFR part 63, subpart NNNN); the NESHAP for Printing, Coating, and Dyeing of Fabrics and Other Textiles (40 CFR part 63, subpart OOOO); and the NESHAP for Surface Coating of Metal Furniture (40 CFR part 63, subpart RRRR) to make corrections after the three subparts were amended in a final rule published in the **Federal Register** on March 15, 2019 (84 FR 9590). The proposed corrections were published on November 1, 2019 (84 FR 58936), and no public comments on these corrections were received. Therefore, we are making the corrections to these three subparts as proposed.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on July 8, 2020.

For affected sources in the ALDT, MMPP, and PPP source categories, the compliance date is January 5, 2021, with the exception of the electronic format for submitting semiannual compliance reports. For the electronic format for submitting semiannual compliance reports, both existing and new (or reconstructed) affected sources must comply within 1 year after the electronic reporting templates are available on CEDRI, or 1 year after July 8, 2020, whichever is later. The EPA selected these compliance dates based on experience with similar industries and the EPA's detailed justification for the selected compliance dates is included in the preamble to the proposed rule (84 FR 58965, 58975, and 58984).

F. What are the requirements for submission of performance test data to the EPA?

As proposed, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is finalizing the requirement for owners or operators of facilities in the ALDT, MMPP, and PPP source categories to submit electronic copies of certain required performance test reports.

Performance test results collected using test methods that are supported by the EPA's ERT as listed on the ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test be submitted in the format generated through the use of the ERT. The ERT will generate an electronic report package which will be submitted to the CEDRI interface on the EPA's CDX. CEDRI can be accessed through the CDX website (*https://cdx.epa.gov/*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT website. Electronic reporting will save time in the performance test submittal process. The electronic submittal of reports increases the usefulness of the data contained in those reports, is in keeping with current trends in data availability, further assists in the protection of public health and the environment, and ultimately results in less burden on regulated facilities. It also will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance and the ability of air agencies and the EPA to assess and determine compliance. Electronic storage of reports make data more accessible for review, analysis, and sharing. Electronic reporting also eliminates paper-based, manual processes; thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to affected facilities, air agencies, the EPA, and the public. For a more thorough discussion of electronic reporting of performance tests, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* August 8, 2018, in the ALDT Docket, MMPP Docket, and PPP Docket.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state/local/tribal agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations.

IV. What is the rationale for our final decisions and amendments for these source categories?

For each amendment, this section provides a description of what we proposed and what we are finalizing for the amendment, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the ALDT Docket, MMPP Docket, and PPP Docket.

A. Residual Risk Reviews

1. What did we propose pursuant to CAA section 112(f)?

a. Surface Coating of ALDT (40 CFR part 63, subpart IIII) Source Category

Pursuant to CAA section 112(f)(2), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the November 1, 2019, proposed rule for 40 CFR part 63, subpart IIII (84 FR 58954). The results of the risk assessment for the proposal are presented briefly below in Table 2 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Surface Coating of Automobiles and Light-Duty Trucks Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the ALDT Docket.

TABLE 2—SURFACE COATING OF ALDT SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer target organ-specific hazard index (TOSHI [1])		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	
Source Category	10	10	15,000	19,000	0.01	0.01	0.3	0.3	hazard quotient reference exposure limit (HQREL) = 1.
Whole Facility ...	10	.....	48,000	.....	0.02	.....	0.3	.....	

[1] The TOSHI is the sum of the chronic noncancer hazard quotients (HQs) for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = HQ reference exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 2 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) is 10-in-1 million (driven by naphthalene and ethyl benzene from miscellaneous industrial processes—other/not classified), the maximum chronic noncancer TOSHI value based on actual emissions is 0.3 (driven by hexamethylene-1,6-diisocyanate from a painting topcoat process), and the maximum screening acute noncancer HQ value (off-facility site) could be up to 1 (driven by formaldehyde). At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.01 excess cancer cases per year, or one case in every 100 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 2 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) is 10-in-1 million (driven by naphthalene and ethyl benzene), and the maximum chronic noncancer TOSHI value based on allowable emissions is 0.3 (driven by hexamethylene-1,6-diisocyanate). At proposal, the total annual cancer incidence (national) from these facilities based on allowable emissions was estimated to be 0.01 excess cancer cases per year, or one case in every 100 years.

The maximum individual cancer risk (lifetime) for the whole facility was determined to be 10-in-1 million at proposal (driven by naphthalene and ethyl benzene). The maximum facility-wide TOSHI for the source category was estimated to be 0.3 (driven by emissions of hexamethylene-1,6-diisocyanate). At proposal, the total estimated cancer incidence from the whole facility was determined to be 0.02 excess cancer cases per year, or one excess case in every 50 years.

One persistent and bioaccumulative HAP (PB–HAP) is emitted by facilities in the source category: Lead. In evaluating the potential for multipathway effects from emissions of lead, we compared modeled annual lead concentrations to the National Ambient Air Quality Standard (NAAQS) for lead of 0.15 milligrams per cubic meter (mg/m^3), arithmetic mean concentration over a 3-month period. The highest annual average lead concentration of 1.5×10^{-5} mg/m^3 is below the NAAQS level for lead, indicating a low potential for multipathway impacts of concern due to lead even assuming a shorter averaging period is analyzed. Based on this evaluation, we proposed that there is no significant potential for human health multi-pathway risks as a result of HAP emissions from this source category. Three environmental HAP are emitted by sources within this source category: Lead, hydrochloric acid (HCl) and hydrogen fluoride (HF). Therefore, at proposal, we conducted a screening-level evaluation of the potential adverse environmental risks associated with emissions of lead, HCl, and HF for the ALDT source category. Based on this evaluation, we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Surface Coating of ALDT source category are acceptable (section IV.A.2.a of proposal preamble, 84 FR 58956, November 1, 2019).

We then considered whether 40 CFR part 63, subpart IIII provides an ample margin of safety to protect public health. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Related to risk, the baseline risks were low, and regardless of the availability of further control options, little risk reduction could be realized. As discussed further in section IV.B of this preamble, we did not identify any cost-effective measures to further reduce HAP emissions for the Surface Coating of ALDT source category. Therefore, given the low baseline risks and lack of options for further risk reductions, we proposed that additional emission controls for this source category are not necessary to provide an ample margin of safety (section IV.A.2.b of proposal preamble, 84 FR 58956, November 1, 2019).

b. Surface Coating of MMPP (40 CFR part 63, subpart MMMM) Source Category

Pursuant to CAA section 112(f)(2), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the November 1, 2019, proposed rule for 40 CFR part 63, subpart MMMM (84 FR 58966). The results of the risk assessment for the proposal are presented briefly below in Table 3 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Surface Coating of MMPP Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the MMPP Docket.

TABLE 3—SURFACE COATING OF MMPP SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	
Source category	20	30	18,000	24,000	0.008	0.01	0.8	1	HQREL = 4.
Whole facility	100	.....	370,000	.....	0.04	.....	1	.....	

[1] The TOSHI is the sum of the chronic noncancer HQ for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = HQ reference exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 3 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) is 20-in-1 million (driven by naphthalene and ethyl benzene from coating operations), the maximum chronic noncancer TOSHI value based on actual emissions is 0.8 (driven by antimony from coating operations), and the maximum screening acute noncancer HQ value (off-facility site) could be up to 4 (driven by glycol ethers). At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.008 excess cancer cases per year, or one case in every 125 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 3 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) is 30-in-1 million (driven by naphthalene and ethyl benzene), and the maximum chronic noncancer TOSHI value based on allowable emissions is 1 (driven by antimony). At proposal, the total annual cancer incidence (national) from these facilities based on allowable emissions was estimated to be 0.01 excess cancer cases per year, or one case in every 100 years.

The maximum individual cancer risk (lifetime) for the whole facility was determined to be 100-in-1 million at proposal (driven by nickel from welding operations). The maximum facility-wide TOSHI for the source category was estimated to be 1 (driven by emissions of cobalt from a gel coating operation). At proposal, the total estimated cancer incidence from the whole facility was determined to be 0.04 excess cancer cases per year, or one excess case in every 25 years.

Three PB–HAP are emitted by facilities in the source category: Arsenic, cadmium, and lead. The PB–HAP emissions from these facilities did not exceed the Tier 1 multipathway screening value of 1 for cancer or noncancer. In evaluating the potential for multipathway effects from emissions of lead, we compared modeled annual lead concentrations to the NAAQS for lead of 0.15 mg/m^3, arithmetic mean concentration over a 3-month period). The highest annual average lead concentration of 0.059 mg/m^3 is below the NAAQS level for lead, indicating a low potential for multipathway impacts of concern due to lead even assuming a shorter averaging period is analyzed. Based on this evaluation, we proposed that there is no significant potential for human health multi-pathway risks as a result of HAP emissions from this source category. Four environmental HAP are emitted by facilities in this source category: Arsenic, cadmium, lead and HCl. Therefore, at proposal, we conducted a screening-level evaluation of the potential adverse environmental effects associated with emissions of arsenic, cadmium, lead, and HCl for the MMPP source category. Based on this evaluation, we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 3 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Surface Coating of MMPP source category are acceptable (section IV.B.2.a of proposal preamble, 84 FR 58967, November 1, 2019).

We then considered whether 40 CFR part 63, subpart MMMM provides an ample margin of safety to protect public health. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Based on our review (described in section IV.B of this preamble), we identified and evaluated the use of add-on control technologies for the rubber-to-metal bonding and high-performance coating subcategories.

We determined that the added costs and cost effectiveness for these two coating subcategories ($9,500 per ton of HAP reduced for the rubber-to-metal bonding subcategory and $11,700 per ton for the high-performance coating subcategory) are not justified. We proposed that these costs are unreasonable particularly because the risks are already low, and the risks would not be reduced in a meaningful manner by the control of these subcategories. Six facilities in the high-performance subcategory had a cancer risk above 1-in-1 million. The cancer risk for only one of these facilities would be reduced as a result of the add-on controls evaluated, going from 6-in-1 million to 2-in-1 million (based on actual emissions) because the facility would be required to reduce emissions. Only one facility in the rubber-to-metal bonding subcategory had a cancer risk above 1-in-1 million. The cancer risk for this facility would not be reduced as a result of the add-on controls evaluated because the facility is able to use averaging between the general-use subcategory and the rubber-to-metal bonding subcategory to meet the general-use emission limit and would not have to reduce emissions. Therefore, we proposed that additional emissions controls for this source category are not necessary to provide an ample margin of safety (section IV.B.2.b of proposal preamble, 84 FR 58968, November 1, 2019). Of the 40 facilities in the high-performance subcategory, there were six with cancer risk above 1-in-1 million. The cancer risk for only one of these facilities would be reduced as a result of the add-on controls evaluated, going from 6-in-1 million to 2-in-1 million (based on actual emissions). Of the 16 facilities in the rubber-to-metal bonding subcategory, only one had cancer risk

above 1-in-1 million. The cancer risk for this facility would not be reduced as a result of the add-on controls evaluated.

c. Surface Coating of PPP (40 CFR part 63, subpart PPPP) Source Category

Pursuant to CAA section 112(f)(2), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the November 1, 2019, proposed action for 40 CFR part 63, subpart PPPP (84 FR 58976). The results of the risk assessment for the proposal are presented briefly below in Table 4 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Surface Coating of PPP Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* available in the PPP Docket.

TABLE 4—SURFACE COATING OF PPP SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	
Source Category	10	10	600	700	0.001	0.001	1	1	HQREL = 4.
Whole Facility ...	70	.....	29,000	.....	0.006	.....	1	.....	

[1] The TOSHI is the sum of the chronic noncancer HQ for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = HQ reference exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 4 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) is 10-in-1 million (driven by formaldehyde, naphthalene, and ethyl benzene from coating operations), the maximum chronic noncancer TOSHI value based on actual emissions is 1 (driven by hexamethylene-1,6-diisocyanate from coating operations), and the maximum screening acute noncancer HQ value (off-facility site) could be up to 4 (driven by glycol ethers). At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.001 excess cancer cases per year, or one case in every 1,000 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 4 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) is 10-in-1 million (driven by formaldehyde, naphthalene, and ethyl benzene), and the maximum chronic noncancer TOSHI value based on allowable emissions is 1 (driven by hexamethylene-1,6-diisocyanate from coating operations). At proposal, the total annual cancer incidence (national) from these facilities based on allowable emissions was estimated to be 0.001 excess cancer cases per year, or one case in every 1,000 years.

The maximum individual cancer risk (lifetime) for the whole facility was determined to be 70-in-1 million at proposal (driven by nickel and formaldehyde from a co-located boiler). The maximum facility-wide TOSHI for the source category was estimated to be 1 (driven by emissions of nickel and formaldehyde from a co-located boiler). At proposal, the total estimated cancer incidence from the whole facility was determined to be 0.006 excess cancer cases per year, or one excess case in every 200 years.

No PB–HAP are emitted by facilities in this source category; therefore, at proposal we did not estimate any human health multi-pathway risks from this source category. No environmental HAP are emitted by facilities in this source category; therefore, we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 4 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Surface Coating of PPP source category are acceptable (section IV.C.2.a of proposal preamble, 84 FR 58977, November 1, 2019).

We then considered whether 40 CFR part 63, subpart PPPP provides an ample margin of safety to protect public health. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Based on our review at proposal (described in section IV.B of this preamble), we did not identify any measures to further reduce HAP. Therefore, we proposed that additional emissions controls for this source category are not necessary to provide an ample margin of safety (section IV.C.2.b of proposal preamble, 84 FR 58978, November 1, 2019).

2. How did the risk reviews change since proposal?

We have not changed any aspect of the risk assessments for any of the three source categories as a result of public comments received on the November 1, 2019, proposal for any of the three source categories.

3. What key comments did we receive on the risk reviews, and what are our responses?

We received comments in support of and against the proposed residual risk reviews and our determinations that no revisions were warranted under CAA section 112(f)(2) for all three source categories. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, some commenters stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes to our Science Advisory Board-approved review process were necessary. The comments and our specific responses can be found in the document,

Summary of Public Comments and Responses for the Risk and Technology Reviews for Surface Coating Automobiles and Light-Duty Trucks, Surface Coating of Miscellaneous Metal Parts and Products, and Surface Coating of Plastic Parts and Products, available in the dockets for this action (Docket ID Nos. EPA–HQ–OAR–2019–0312, EPA–HQ–OAR–2019–0313, and EPA–HQ–OAR–2019–0314).

4. What is the rationale for our final approach and final decisions for the risk reviews?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on the maximum individual risk (MIR) of approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the quantitative risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule and above, we find that the risks from the Surface Coating of ALDT, Surface Coating of MMPP, and Surface Coating of PPP source categories are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising any of these three subparts to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are maintaining the existing standards under CAA section 112(f)(2).

B. Technology Reviews

1. What did we propose pursuant to CAA section 112(d)(6)?

Based on our review, we did not identify any developments in practices, processes, or control technologies for the Surface Coating of ALDT source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). A brief summary of the EPA's findings in conducting the technology review of ALDT surface coating operations was included in the preamble to the proposed action (84 FR 58957, November 1, 2019). For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for Surface Coating Operations in the Automobiles and Light-Duty Trucks Source Category,* June 2019, in the ALDT Docket.

In our technology review of the Surface Coating of MMPP source category, we identified and evaluated the use of add-on control technologies (*e.g.,* regenerative thermal oxidizers) for two coating subcategories, high-performance coating and rubber-to-metal coating, that had not been previously considered during development of the MMPP NESHAP. This analysis is described in detail in the preamble to the proposed action (84 FR 58969, November 1, 2019). However, we determined that the added costs and cost effectiveness for these two coating subcategories ($9,500 per ton of HAP reduced for the rubber-to-metal coating subcategory and $11,700 per ton for the high-performance subcategory) were not justified. Aside from this, we did not identify any new or improved process equipment, work practices, or procedures that would further reduce emissions. Therefore, the EPA proposed no revisions to the MMPP NESHAP pursuant to CAA section 112(d)(6). For a detailed discussion of the EPA's findings, refer to the *MMPP Technology Review Memo* in the MMPP Docket.

Based on our review, we did not identify any developments in practices, processes, or control technologies for the Surface Coating of PPP source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). A brief summary of the EPA's findings in conducting the technology review of plastic parts surface coating operations was included in the preamble to the proposed action (84 FR 58978, November 1, 2019). For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for the Plastic Parts and Products Surface Coating Operations Source Category,* June 2019, in the PPP Docket.

2. How did the technology reviews change since proposal?

We are making no changes to the conclusions of the technology review and are finalizing the results of the technology reviews for the Surface Coating of ALDT, Surface Coating of MMPP, and Surface Coating of PPP source categories as proposed.

3. What key comments did we receive on the technology reviews, and what are our responses?

We received several general comments supporting the results of our technology reviews for all three source categories and one comment objecting to our conclusion that there have been no technology developments in these three source categories.

Comment: One commenter alleged that the EPA has failed to meet the statutory obligation to conduct a technology review under CAA section 112(d)(6). The commenter argued that the EPA has refused to complete the technology review by refusing to strengthen the emission standards for regulated pollutants based primarily on cost or cost effectiveness. The commenter argued that CAA section 112(d)(6) does not include that term "cost effectiveness," and so the EPA's proposed action on the technology review is unlawful and arbitrary.

Response: The EPA disagrees with the commenter that cost effectiveness cannot be considered in the technology reviews. CAA section 112(d)(6) does include the phrase "as necessary" and the EPA interprets "as necessary" to include a cost component, such as cost effectiveness. The EPA's interpretation that cost and cost effectiveness may be considered in technology reviews was affirmed by the Court in *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (DC Cir. 2013).[3] Therefore, the technology review for the Surface Coating of MMPP source category completed at proposal is not being revised based on this comment.

[3] See *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (DC Cir. 2013), p. 673: Environmental petitioners next argue that the EPA impermissibly considered cost in revising emissions standards under CAA section 112(d)(6). But the statute only bars cost consideration in setting MACT floors under CAA section 112(d)(3), see *National Lime,* 233 F.3d at 640; CAA section 112(d)(2) in contrast expressly directs the EPA to consider costs when setting beyond-the-floor standards, see 42 U.S.C. 7412(d)(2) (directing the Administrator to "tak[e] into consideration the cost of achieving . . . emission reduction"). Petitioners are correct that CAA section 112(d)(6) itself makes no reference to cost and that the Supreme Court has "refused to find implicit in ambiguous sections of the [CAA] an authorization to consider costs that has elsewhere, and so often, been expressly granted." *Whitman* v. *American Trucking Associations, Inc.,* 531 U.S. 457, 467, 121 S. Ct. 903, 149 L.Ed.2d 1 (2001). But given that the EPA has no obligation to recalculate the MACT floor when revising standards, see *supra* at 672–73, and given that CAA section 112(d)(2) expressly authorizes cost consideration in other aspects of the standard-setting process, we believe this clear statement rule is satisfied.

4. What is the rationale for our final approach and final decisions for the technology reviews?

For the reasons explained in the preamble to the proposed rules (84 FR 58597, 58969, and 58978, November 1, 2019), and in our analysis of public comments explained above in section IV.B.3 of this preamble, we are making no changes to any of the three subparts to require additional controls pursuant to CAA section 112(d)(6) and are finalizing the results of the technology reviews as proposed.

C. Electronic Reporting Provisions

1. What did we propose?

In the November 1, 2019, document, we proposed to require owners and operators of surface coating facilities in all three source categories to submit electronic copies of notifications, reports, and performance tests through the EPA's CDX, using the CEDRI. These include the initial notifications required in 40 CFR 63.9(b); notifications of compliance status required in 40 CFR 63.9(h); the performance test reports required in 40 CFR 63.7(g); and the semiannual reports required in 40 CFR 63.3120(a) for ALDT surface coating, 40 CFR 63.3920(a) for MMPP surface coating, and 40 CFR 63.4520(a) for PPP surface coating. A description of the electronic submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP),* August 8, 2018, in the ALDT, MMPP, and PPP Dockets. The proposed rule requirements would replace the current rule requirements to submit the notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. The proposed rule requirement would not affect submittals required by state air agencies.

2. What changed since proposal?

We are finalizing the electronic reporting provisions as proposed with no changes (84 FR 58958, 58970, and 58979, November 1, 2019).

3. What key comments did we receive and what are our responses?

Comment: Several commenters requested that additional opportunity should be provided for public review and comment of the electronic reporting templates before they are final and facilities are required to use them for electronic reporting. One commenter also requested that the EPA provide a notice and comment period through a **Federal Register** document for all future changes in reporting templates because many industry members do not track changes to the CEDRI website where the EPA intends to make future template changes. The commenter argued that this would be consistent with the requirements of both the CAA and the Administrative Procedures Act (APA) because, the commenter argues, the development of the reporting template constitutes a rulemaking action.

Response: The EPA disagrees that changes to the electronic reporting template constitute a rulemaking because the reporting template does not create new requirements, but instead, provides the mechanism by which the sources report the information required to be submitted pursuant to the underlying NESHAP.

The EPA promulgated the original MACT emissions standards and attendant monitoring, recordkeeping, and reporting requirements through notice and comment rulemaking, but the sources were not required to submit reports via electronic reporting at the time. The EPA is moving toward electronic reporting for all NESHAP and proposed to require electronic reporting for these source categories along with the RTR rulemaking. The electronic reporting template is the tool by which the sources will enter their required reports and data to CEDRI to comply with the NESHAP, but it does not establish, in itself, any requirements, including monitoring, recordkeeping, and reporting requirements. Any future revisions to the underlying NESHAP's monitoring, recordkeeping, and reporting requirements will be made through a proposed rulemaking that will be published in the **Federal Register**; thereby giving the public notice and an opportunity to comment. The changes to reporting templates, by contrast, are merely changes that are necessary to allow owners/operators to successfully submit reports (*e.g.,* resolving issues with template cells that are not properly formatted, unlocking inadvertently locked cells, and correcting regulatory citations). The EPA disagrees that the APA and the CAA require such changes undergo notice and comment rulemaking in the **Federal Register**.

We also note that if the reporting templates for these subparts are completed concurrently with the final rule publication, facilities will have 1 year after the final rule is published to submit semiannual compliance reports using the electronic reporting template in CEDRI. If the reporting templates are not finalized concurrently with the final rule publication, facilities will be required to submit semiannual compliance reports using the electronic reporting template in CEDRI once the reporting template has been available on the CEDRI website for one year. The dates that templates are initially made available in CEDRI are listed on the CEDRI website.

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the preamble to the proposed rules (84 FR 58958, 58970, and 58979, November 1, 2019), and in the comment responses above in section IV.C.3 of this preamble, we are finalizing the electronic reporting provisions for 40 CFR parts 63, subparts IIII, MMMM, and PPPP, as proposed.

D. SSM Provisions

1. What did we propose?

In the November 1, 2019, action, we proposed amendments to the ALDT NESHAP, the MMPP NESHAP, and the PPP NESHAP to remove and revise provisions related to SSM that are not consistent with the statutory requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rules (84 FR 58959, 58971, and 58980, November 1, 2019).

2. What changed since proposal?

We are finalizing the SSM provisions as proposed except for some changes to the General Provisions references in Table 2 of 40 CFR part 63, subpart IIII (84 FR 58959, 58971, and 58980, November 1, 2019).

3. What key comments did we receive and what are our responses?

Comment: One commenter argued that the proposed removal and revision of the SSM provisions would effectively eliminate a longstanding provision applicable to magnet wire coating operations that allows for extra HAP emissions during SSM events, so long as the permittee addresses those events according to its facility SSM plan. The commenter acknowledged that the EPA is compelled to take this action by the decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), but the commenter reported that certain facilities now are challenged to find a methodology for emission calculations during SSM periods.

The commenter reported that magnet wire coaters—unless advised of an alternative approach—would account for SSM events in emission calculations by weighing coating hours in full compliance (with control percentage

determined through stack testing) v. coating hours during start-up, shutdown, and malfunction periods, where the default assumption during the latter is zero control. The commenter stated that the weighted efficiency ratio would then be applied to the total mass of HAP input to surface coating operations to determine estimated emissions.

Response: The EPA agrees we are compelled to remove and revise the SSM provisions from each subpart consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008).

The commenter has not provided enough detail for the EPA to determine whether the compliance approach described by the commenter is consistent with the current requirements of 40 CFR part 63, subpart MMMM. However, subpart MMMM already includes provisions to account for deviation periods, so the commenter's proposed approach should not be necessary. For example, for coating operations that use an add-on control device, Equation 1 of 40 CFR 63.3961 includes the term H_{UNC}, which is the total mass in kilograms of organic HAP in the coatings, thinners, and/or other additives, and cleaning materials used during all deviations specified in 40 CFR 63.3963(c) and (d) that occurred during the month, as calculated in Equation 1D of 40 CFR 63.3961. The rest of subpart MMMM treats these HAP as being uncontrolled, which is consistent with the commenter's assumption of zero control during SSM events.

Comment: One commenter recommended several changes to Table 2 (Applicability of General Provisions) to 40 CFR part 63, subpart IIII, as result of the changes made to reflect the SSM changes:

- Clarify that the provisions of 40 CFR 63.6(e)(3), 63.6(f)(1), 63.10(b)(2), and 63.10(d)(5) apply only to capture systems and add-on control devices used to comply with the standards, as in the current rule;
- correct an apparent drafting error and add back in a reference to 40 CFR 63.6(i)(16) with an indicator that it is still applicable to 40 CFR part 63, subpart IIII;
- do not finalize the applicability of 40 CFR 63.8(c)(7) from "No" to "Yes" unless the EPA provides further explanation of this change because it was not discussed in the preamble to the proposed rule; and
- combine the provisions of 40 CFR 63.9(h)(5) and (6) with the other notification of compliance status requirements in 40 CFR 63.9(h)(1) through (3).

Response: We agree with the commenter that the language indicating that the provisions of 40 CFR 63.6(e)(3), 63.6(f)(1), 63.10(b)(2), and 63.10(d)(5) apply only to capture systems and add-on control devices used to comply with the standards is a useful clarification and it is being added back into the appropriate rows of Table 2 to 40 CFR part 63, subpart IIII suggested by the commenter.

The commenter is correct that 40 CFR 63.6(i)(16) is still applicable to 40 CFR part 63, subpart IIII and this has been added back into the final Table 2 to subpart IIII.

We proposed to change the applicability of 40 CFR 63.8(c)(7) in Table 2 to 40 CFR part 63, subpart IIII from "No" to "Yes" because that was an apparent error in the original Table 2 to subpart IIII. Facilities are required to comply with 40 CFR 63.8(c)(7) as specified in 40 CFR 63.3120(a)(4), and the Table 2 to subpart IIII should already have been "Yes" instead of "No." New references to 40 CFR 63.8(c)(7) are also being added in 40 CFR 63.3120(a)(6)(vii) and (a)(8)(vi).

We agree with the commenter that the provisions of 40 CFR 63.9(h)(5) and (6) should be combined with the other notification of compliance status requirements in 40 CFR 63.9(h)(1) through (3). The provisions of 40 CFR 63.9(h)(5) and (6) were separated in drafting the revised table because 40 CFR 63.9(h)(4) is reserved, but we agree that keeping them together on one line as "§ 63.9(h)(1) through (3), (5), and (6)" would avoid confusion, so we are adopting that approach in the promulgated version of Table 2 to 40 CFR part 63, subpart IIII.

4. What is the rationale for our final approach for the SSM provisions?

For the reasons explained in the proposed rule and after evaluation of the comments on the proposed amendments to the SSM provisions for the ALDT NESHAP, MMPP NESHAP, and PPP NESHAP, we are finalizing the proposed revisions related to SSM so that they are now consistent with the requirement that the standards apply at all times. More information concerning the proposed amendments to the SSM provisions is in the preamble to the proposed rules (84 FR 58959, 58971, and 58980, November 1, 2019).

E. Ongoing Compliance Demonstrations

1. What did we propose?

In the November 1, 2019, action, we proposed to require owners and operators of ALDT, MMPP, and PPP surface coating facilities that use the emission rate with add-on controls compliance option to conduct periodic performance testing of add-on control devices on a regular frequency of every 5 years to ensure the equipment continues to operate properly. This proposed periodic testing requirement included an exception to the general requirement for periodic testing for facilities using the catalytic oxidizer control options and following catalyst maintenance procedures that are found in 40 CFR part 63, subparts IIII, MMMM, and PPPP. These catalyst maintenance procedures include annual testing of the catalyst and other maintenance procedures that provide ongoing demonstrations that the control system is operating properly and may, thus, be considered comparable to conducting a performance test. The proposed periodic performance testing requirement also allows an exception from periodic testing for facilities using continuous emission monitoring systems (CEMS) to show actual emissions. The use of CEMS to demonstrate compliance would obviate the need for periodic testing.

This proposed requirement did not require periodic testing or CEMS monitoring of facilities using the compliant materials option or the emission-rate without add-on controls compliance option because these two compliance options do not use any add-on controls or control efficiency measurements in the compliance calculations.

The proposed periodic performance testing requirement requires facilities complying with the standards using emission capture systems and add-on controls and which are not already on a 5-year testing schedule to conduct the first of the periodic performance tests within 3 years of the effective date of the revised standards. Afterward, they would conduct periodic testing before they renew their operating permits, but no longer than 5 years following the previous performance test. Additionally, facilities that have already tested as a condition of their permit within the last 2 years before the effective date would be permitted to maintain their current 5-year schedule.

2. What changed since proposal?

We have revised the proposed periodic testing language in 40 CFR part 63, subparts IIII, MMMM, and PPPP, since proposal to clarify that testing is only required for add-on control devices and is not for emission capture systems. We are also revising 40 CFR 63.3093(a) to clarify that facilities in the ALDT source category are not required to meet any operating limits for any coating

operations that do not use add-on controls to comply with the emission limits in 40 CFR 63.3090 or 63.3091.

3. What key comments did we receive and what are our responses?

Comment: One commenter recommended that proposed rule language at 40 CFR 63.3163(c)(3) in subpart IIII should be revised to clarify that periodic performance testing is only required for the add-on control device and that capture system efficiency testing is not required. The commenter argued that the EPA provided no technical justification to require periodic capture efficiency testing, and that capture efficiency is not likely to change without structural or operational changes to the emission capture system.

Response: The EPA agrees with the commenter and has revised the periodic performance testing language in 40 CFR part 63, subparts IIII, MMMM, and PPPP to clarify that the testing applies to the add-on control devices and does not include capture efficiency testing.

Comment: One commenter requested that the final 40 CFR part 63, subpart IIII should clarify that timing of subsequent performance tests should be aligned with title V permit requirements for testing to avoid additional testing to comply with both the NESHAP and their title V permits. The commenter recommended that regulatory language should provide for periodic testing "within the 5-year term of the Title V permit" or "within 5 years of the most recent testing," or something similar. The commenter stated that the EPA should not require testing within a specified time period from the issuance of the amended rule or by a specific date.

Response: The EPA disagrees with the commenter that changes to the proposed rule language are needed because the proposed rule language already allows this flexibility. The proposed rule language at 40 CFR 63.3163(c)(3) stated,

". . . You must conduct the first periodic performance test before [date 3 years after date of publications of final rule in the **Federal Register**], unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after [date 2 years before date of publications of final rule in the **Federal Register**]. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. . . ."

Therefore, the proposed rule language already allows a facility to conduct a performance test within the 5-year period of a title V permit if testing is already required, and does not specify any additional testing, as long as the title V permit is renewed on a regular 5-year schedule as specified under 40 CFR part 70 and 40 CFR part 71.

Comment: One commenter requested that the EPA should allow for performance testing extensions beyond the 5-year requirement when necessary to obtain representative conditions and when agreed to with the EPA or with an EPA-approved permitting authority. The commenter argued that if, for example, significant coating operation facility changes or product changes are planned near the end of a 5-year period, deferring testing until after the change occurs would be preferable to obtain a more representative result. The commenter noted that the General Provisions currently allow for delays in performance tests due to *force majeure* events or a waiver of subsequent performance tests under certain conditions, but the General Provisions do not specifically reference testing delays due to the need to establish representative conditions. The commenter provided two examples of permit language that allow for extensions of testing periods.

Response: The EPA disagrees with the need to allow for testing delays and is not revising the proposed language to include the commenter's recommendation. The compliance calculations in 40 CFR part 63, subparts IIII, MMMM, and PPPP require a facility to use the organic HAP destruction or removal efficiency (DRE) of the add-on control device. The standards already require that tests be performed under representative coating operation operating conditions and under representative emission capture system and add-on control device operating conditions, which specifically exclude testing during periods of startup, shutdown, nonoperation, and malfunction. The EPA currently does not have sufficient information to define the conditions under which an extension should be granted, and no additional information was provided by the commenter. The commenter also provided no additional information to indicate whether and how the situations described by the commenter (*e.g.,* significant coating operation changes or product changes) would alter the DRE of an add-on control device.

The EPA also notes that the purpose of periodic compliance testing is to not only demonstrate future compliance, but to also confirm past compliance. If a facility is planning significant changes that would prevent testing according to the 5-year schedule, the facility may need to complete testing earlier so as to demonstrate that the facility was in compliance under the original configuration. It may be necessary for the facility to repeat testing under the new configuration to re-establish new operating limits and efficiency values for the emission capture and control system.

Comment: One commenter requested that the EPA revise 40 CFR 63.3093(a) to clarify that facilities in the ALDT source category that do not use add-on controls to comply with the emission limits in 40 CFR 63.3090 or 63.3091 are not required to comply with the operating limits for add-on controls and emission capture systems. The commenters reported that the original language in 40 CFR 63.3093(a) only mentioned "coating operations without add-on controls" and this has led to confusion because many facilities have add-on controls to limit VOC emissions, but they are not needed to comply with the HAP emission limits.

Response: The EPA agrees that this change will avoid confusion and we will make the change to the language in 40 CFR part 63, subpart IIII. Other surface coating NESHAP, such as 40 CFR part 63, subparts MMMM and PPPP, already have language that avoids similar confusion over the applicability of the operating limits.

4. What is the rationale for our final approach for the ongoing compliance demonstrations?

For the reasons explained in the preamble to the proposed rules (84 FR 58963, 58974, and 58983, November 1, 2019), and in the comment responses above in section IV.E.3 of this preamble, we are finalizing the periodic testing provisions for 40 CFR part 63, subparts IIII, MMMM, and PPPP, as proposed. As also described in section IV.E.3 of this preamble, we are also making changes to each NESHAP to clarify that testing is only required for add-on control devices and is not required for emission capture systems. We are also revising 40 CFR 63.3093(a) to clarify that facilities in the ALDT source category are not required to meet any operating limits for any coating operations that do not use add-on controls to comply with the emission limits in 40 CFR 63.3090 or 63.3091, as described in section IV.E.3 of this preamble.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

Currently, we estimate 43 major source facilities are subject to the ALDT NESHAP and operating in the United

States. The affected source under the NESHAP is the collection of all coating operations; all storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed; all manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation. A coating operation is defined as the equipment used to apply coating to a substrate (coating application) and to dry or cure the coating after application. A single coating operation always includes at least the point at which a coating is applied and all subsequent points in the affected source where organic HAP emissions from that coating occur. There may be multiple coating operations in an affected source. Coating application with hand-held nonrefillable aerosol containers, touchup bottles, touchup markers, marking pens, or pinstriping equipment is not a coating operation for the purposes of this subpart. The application of temporary materials such as protective oils and ''travel waxes'' that are designed to be removed from the vehicle before it is delivered to a retail purchaser is not a coating operation for the purposes of 40 CFR part 61, subpart IIII.

Currently, we estimate 368 major source facilities are subject to the MMPP NESHAP and operating in the United States. The affected source under the NESHAP is the collection of all coating operations; all storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed; all manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation. A coating operation is defined as the equipment used to apply cleaning materials to a substrate to prepare it for coating application (surface preparation) or to remove dried coating; to apply coating to a substrate (coating application) and to dry or cure the coating after application; or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment but always includes at least the point at which a given quantity of coating or cleaning material is applied to a given part and all subsequent points in the affected source where organic HAP are emitted from the specific quantity of coating or cleaning material on the specific part. There may be multiple coating operations in an affected source. Coating application with handheld, non-refillable aerosol containers, touch-up markers, or marking pens is not a coating operation for the purposes of 40 CFR part 63, subpart MMMM.

Currently, we estimate 125 major source facilities are subject to the PPP NESHAP and operating in the United States. The affected source under the NESHAP is the collection of coating operations; all storage containers and mixing vessels in which coatings, thinners, and cleaning materials are stored or mixed; all manual and automated equipment and containers used for conveying coatings, thinners, and cleaning materials; and all storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation. A coating operation is defined as the equipment used to apply cleaning materials to a substrate to prepare it for coating application (surface preparation) or to remove dried coating; to apply coating to a substrate (coating application) and to dry or cure the coating after application; or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment but always includes at least the point at which a given quantity of coating or cleaning material is applied to a given part and all subsequent points in the affected source where organic HAP are emitted from the specific quantity of coating or cleaning material on the specific part. There may be multiple coating operations in an affected source. Coating application with handheld, non-refillable aerosol containers, touch-up markers, or marking pens is not a coating operation for the purposes of 40 CFR part 63, subpart PPPP.

B. What are the air quality impacts?

At the current level of control, estimated emissions of volatile organic HAP from the 43 facilities in the ALDT source category are approximately 1,700 tpy. Current estimated emissions of volatile organic HAP from the 368 facilities in the MMPP source category are approximately 2,700 tpy. Current estimated emissions of volatile organic HAP from the 125 facilities in the PPP source category are approximately 760 tpy.

The amendments require that all major sources in the ALDT, MMPP, and PPP source categories comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that will occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard at all times and to minimize SSM periods.

Indirect or secondary air emissions impacts are impacts that would result from, for example, the increased electricity, natural gas, or water usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The amendments would have no effect on the energy needs of the affected facilities in any of the three source categories and will, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that each affected facility in these three source categories will experience costs as a result of these final amendments for recordkeeping and reporting. Each facility will experience costs to read and understand the rule amendments. Costs associated with eliminating the SSM exemption were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the requirement to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports. The recordkeeping and reporting costs are presented in section VI.C of this preamble.

We are also finalizing a requirement for performance testing no less frequently than every 5 years for sources in each source category using the add-on controls compliance options. We estimate that five major source facilities subject to the ALDT NESHAP may incur costs to conduct periodic testing because they are currently using the emission rate with add-on controls compliance option, and the total cost for all five facilities subject to the ALDT NESHAP in a single year would be $95,000. Similarly, we estimate that seven major source facilities subject to the MMPP NESHAP may incur costs to conduct periodic testing because they

are currently using the emission rate with add-on controls compliance option, at a total cost in a single year of $133,000. Finally, we estimate that three major source facilities subject to the PPP NESHAP may incur costs to conduct periodic testing because they are currently using the emission rate with add-on controls compliance option, at a total cost in a single year of $57,000. These estimates exclude testing costs for facilities that have add-on controls and are currently required to perform periodic performance testing as a condition of their state operating permit. The cost for a facility to conduct a destruction or removal efficiency performance test using EPA Method 25 or 25A is estimated to be about $19,000. For further information on the potential costs, see the memorandum titled *Estimated Costs/Impacts 40 CFR part 63 Subparts IIII, MMMM, and PPPP Monitoring Review Revisions,* May 2019, in the ALDT Docket, MMPP Docket, and PPP Docket.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of the compliance costs outlined in section VI.C. of this preamble. To assess the maximum potential impact, the largest cost expected to be experienced in any one year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the ALDT NESHAP, the total cost is estimated to be approximately $113,000 for the 43 affected entities in the first year of the rule, and an additional $122,000 in testing and reporting costs for five facilities in the third year of the rule and every 5 years thereafter. The 43 affected facilities are owned by 14 different parent companies, and the total costs associated with the final requirements range from 0.000002 to 0.0056 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

For the final revisions to the MMPP NESHAP, the total cost is estimated to be approximately $964,000 for the 368 affected entities in the first year of the rule, and an additional $172,000 in testing and reporting costs for seven facilities in the third year of the rule and every 5 years thereafter. The 368 affected facilities are owned by 265 different parent companies, and the total costs associated with the final requirements range from 0.000002 to 0.25 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

For the final revisions to the PPP NESHAP, the total cost is estimated to be approximately $327,000 for the 125 affected entities in the first year of the rule, and an additional $74,000 in testing and reporting costs for three facilities in the third year of the rule and every 5 years thereafter. The 125 affected facilities are owned by 94 different parent companies, and the total costs associated with the final requirements range from 0.000008 to 0.22 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. One of the facilities potentially affected by the final revisions to the ALDT NESHAP is a small entity. However, the annualized costs associated with the final requirements is 0.0056 percent of annual sales revenue for the owner of that facility. Of the facilities potentially affected by the final revisions to the MMPP NESHAP, 110 are small entities. However, the annualized costs associated with the final requirements for the 103 ultimate owners of these 110 affected small entities range from 0.001 to 0.25 percent of annual sales revenues per ultimate owner. Of the facilities potentially affected by the final revisions to the PPP NESHAP, 35 are small entities. However, the annualized costs associated with the final requirements for the 35 ultimate owners of these 35 affected small entities range from 0.0009 to 0.22 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these final amendments.

E. What are the benefits?

As stated in section V.B. of the November 1, 2019, RTR proposal (84 FR 58986), we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption, although this change has the potential to reduce emissions of volatile organic HAP.

Because these amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in volatile organic HAP from this rule.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. The order directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with these source categories, we performed a demographic analysis for each source category, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from each source category across different demographic groups within the populations living near facilities.

1. Surface Coating of ALDT

The results of the demographic analysis for the Surface Coating of ALDT source category are summarized in Table 5 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

The results of the ALDT source category demographic analysis indicate that emissions from the source category expose approximately 15,000 people to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer HI greater than 1. The overall percent of the population that is minorities is similar nationally (38 percent) and for the category population with cancer risk greater than or equal to 1-in-1 million (40 percent). However, the category population with cancer risk greater than or equal to 1-in-1 million has a greater percent Hispanic population (27 percent) as compared to the national percent Hispanic population (18 percent).

TABLE 5—SURFACE COATING OF ALDT SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of ALDT	Population with chronic noncancer HI above 1 due to surface coating of ALDT
Total Population	317,746,049	15,000	0
White and Minority by Percent			
White	62	60	0
Minority	38	40	0
Minority Detail by Percent			
African American	12	10	0
Native American	0.8	0.2	0
Hispanic or Latino	18	27	0
Other and Multiracial	7	3	0
Income by Percent			
Below the Poverty Level	14	19	0
Above the Poverty Level	86	81	0
Education by Percent			
Over 25 Without High a School Diploma	14	14	0
Over 25 With a High School Diploma	86	86	0
Linguistically Isolated by Percent			
Linguistically Isolated	6	3	0

The methodology and the results of the demographic analysis are presented in a technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Automobile and Light-Duty Truck Surface Coating Source Category Operations,* in the ALDT Docket.

2. Surface Coating of MMPP

The results of the demographic analysis for the Surface Coating of MMPP source category are summarized in Table 6 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

The results of the MMPP source category demographic analysis indicate that approximately 18,000 people are exposed to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer HI greater than 1. The percentages of the at-risk population in the following specific demographic groups are higher than their respective nationwide percentages: ''White,'' ''Below the Poverty Level,'' and ''Over 25 and Without a High School Diploma.''

TABLE 6—SURFACE COATING OF MMPP SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of MMPP	Population with chronic noncancer HI above 1 due to surface coating of MMPP
Total Population	317,746,049	18,000	0
White and Minority by Percent			
White	62	75	0
Minority	38	25	0
Minority Detail by Percent			
African American	12	12	0
Native American	0.8	0.6	0
Hispanic or Latino	18	9	0

TABLE 6—SURFACE COATING OF MMPP SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS—Continued

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of MMPP	Population with chronic noncancer HI above 1 due to surface coating of MMPP
Other and Multiracial	7	3	0
Income by Percent			
Below the Poverty Level	14	20	0
Above the Poverty Level	86	80	0
Education by Percent			
Over 25 Without High a School Diploma	14	18	0
Over 25 With a High School Diploma	86	82	0
Linguistically Isolated by Percent			
Linguistically Isolated	6	3	0

The methodology and the results of the demographic analysis are presented in a technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near the Surface Coating of Miscellaneous Metal Parts and Products Source Category,* in the MMPP Docket.

3. Surface Coating of PPP

The results of the demographic analysis for the Surface Coating of PPP source category are summarized in Table 7 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

The results of the PPP source category demographic analysis indicate that approximately 500 people are exposed to a cancer risk at or above 1-in-1 million and no one is exposed to a chronic noncancer HI greater than 1. The percentages of the at-risk population in the following specific demographic groups are higher than their respective nationwide percentages: ''White'' and ''Below the Poverty Level.''

TABLE 7—SURFACE COATING OF PPP SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of PPP	Population with chronic noncancer HI above 1 due to surface coating of PPP
Total Population	317,746,049	500	0
White and Minority by Percent			
White	62	92	0
Minority	38	8	0
Minority Detail by Percent			
African American	12	4	0
Native American	0.8	0.1	0
Hispanic or Latino	18	3	0
Other and Multiracial	7	1	0
Income by Percent			
Below the Poverty Level	14	19	0
Above the Poverty Level	86	81	0
Education by Percent			
Over 25 Without High a School Diploma	14	14	0
Over 25 With a High School Diploma	86	86	0

TABLE 7—SURFACE COATING OF PPP SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS—Continued

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of PPP	Population with chronic noncancer HI above 1 due to surface coating of PPP
Linguistically Isolated by Percent			
Linguistically Isolated	6	0	0

The methodology and the results of the demographic analysis are presented in a technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Surface Coating of Plastic Parts and Products Source Category Operations,* in the PPP Docket.

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the *Residual Risk Assessment for the Surface Coating of Automobiles and Light-Duty Trucks Source Category in Support of the 2020 Risk and Technology Review Final Rule, Residual Risk Assessment for the Surface Coating of Miscellaneous Metal Parts and Products Source Category in Support of the 2020 Risk and Technology Review Final Rule,* and *Residual Risk Assessment for the Surface Coating of Plastic Parts and Products Source Category in Support of the 2020 Risk and Technology Review Final Rule,* in the ALDT Docket, MMPP Docket, and PPP Docket, respectively.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA, as discussed for each source category covered by this action in sections VI.C.1, 2, and 3 of this preamble.

1. Surface Coating of ALDT

The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2045.09. You can find a copy of the ICR in the ALDT Docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0314), and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

As part of the RTR for the ALDT NESHAP, the EPA is not revising the emission limit requirements. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart IIII. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option.

Respondents/affected entities: Facilities performing surface coating of ALDT.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart IIII).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 43 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period. The EPA estimates that five facilities will be required to conduct performance testing in the 3 years after the amendments are final.

Frequency of response: The total number of responses in year 1 is 129 and in year 3 is 15. Year 2 would have no responses.

Total estimated burden: The average annual burden to the ALDT surface coating facilities over the 3 years after the amendments are finalized is estimated to be 410 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the ALDT surface coating facilities is $47,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and operation and maintenance (O&M) costs is $32,000.

2. Surface Coating of MMPP

The ICR document that the EPA prepared has been assigned EPA ICR number 2056.08. You can find a copy of the ICR in the MMPP Docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0312), and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

As part of the RTR for the MMPP NESHAP, the EPA is not revising the emission limit requirements. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart MMMM. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option.

Respondents/affected entities: Facilities performing surface coating of MMPP.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart MMMM).

Estimated number of respondents: In the 3 years after the amendments are

final, approximately 368 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 1,104 and in year 3 is 21. Year 2 would have no responses.

Total estimated burden: The average annual burden to the MMPP surface coating facilities over the 3 years after the amendments are final is estimated to be 2,930 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the MMPP surface coating facilities is $334,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and O&M cost is $44,000.

3. Surface Coating of PPP

The ICR document that the EPA prepared has been assigned EPA ICR number 2044.09. You can find a copy of the ICR in the PPP Docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0313), and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

As part of the RTR for the PPP NESHAP, the EPA is not revising the emission limit requirements. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart PPPP. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option.

Respondents/affected entities: Facilities performing surface coating of PPP.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart PPPP).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 125 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 375 and in year 3 is nine. Year 2 would have no responses.

Total estimated burden: The average annual burden to the PPP surface coating facilities over the 3 years after the amendments are final is estimated to be 1,007 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the PPP surface coating facilities is $115,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and O&M cost is $19,000.

This action does not impose any new information collection burden related to the NESHAP for Surface Coating of Large Appliances; NESHAP for Printing, Coating, and Dyeing of Fabrics and Other Textiles; and NESHAP for Surface Coating of Metal Furniture. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0457 for NESHAP for Surface Coating of Large Appliances; 2060–0522 for NESHAP for Printing, Coating, and Dyeing of Fabrics and Other Textiles; and 2060–0518 for NESHAP for Surface Coating of Metal Furniture. This notice only finalizes technical corrections to these standards and does not impact the reporting or recordkeeping requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves the ICRs, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The economic impact associated with the requirements in this action for the affected small entities is described in section V.D. of this preamble.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that would be affected by this action (ALDT surface coating, MMPP surface coating, and PPP surface coating). Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and C, IV.A.1 and 2, IV.B.1 and 2, and IV.C.1 and 2 of this preamble and are further documented in the *Residual Risk Assessment for the Surface Coating of ALDT Source Category in Support of the 2020 Risk and Technology Review Final Rule, Residual Risk Assessment for the Surface Coating of MMPP Source Category in Support of the 2020 Risk and Technology Review Final Rule,* and *Residual Risk Assessment for the Surface Coating of PPP Source Category in Support of the 2020 Risk and Technology Review Final Rule,* in the ALDT Docket, MMPP Docket, and PPP Docket, respectively.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. The EPA conducted searches for the MACT standards through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute. We also contacted VCS organizations and accessed and searched their databases. During the EPA's VCS search, if the title or abstract (if provided) of the

VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. The EPA is finalizing, as proposed, addition of methods to the ALDT NESHAP, the MMPP NESHAP, and the PPP NESHAP, as discussed in this section VI.J.

The EPA is amending the ALDT NESHAP, the MMPP NESHAP, and the PPP NESHAP to provide owners and operators with the option of using two new methods. We are adding EPA Method 18 of appendix A to 40 CFR part 60, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography," to measure and subtract methane emissions from measured total gaseous organic mass emissions as carbon. We are also amending each of these NESHAP to incorporate by reference ASTM D2369–10 (Reapproved 2015)[e], "Standard Test Method for Volatile Content of Coatings," into these three NESHAP as an alternative to EPA Method 24 for the determination of the volatile matter content in surface coatings. ASTM D2369–10 (Reapproved 2015)[e] is a test method that allows for more accurate results for multi-component chemical resistant coatings.

We are amending the MMPP NESHAP and the PPP NESHAP to incorporate by reference ASTM D2111–10 (Reapproved 2015), "Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures," as an alternative to ASTM D1475–13. ASTM D2111–10 (Reapproved 2015) is a test method that allows measurement of specific gravity at different temperatures that are chosen by the analyst.

We are amending all three NESHAP to update ASTM D1475–98 (Reapproved 2003), "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products," by incorporating by reference ASTM D1475–13, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products." This test method covers the measurement of the density of paints, inks, varnishes, lacquers, and components thereof, other than pigments, when in fluid form.

We are amending the ALDT NESHAP and the MMPP NESHAP to update ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," by incorporating by reference ASTM D2697–03 (Reapproved 2014), which is the updated version of the previously approved method, and to update ASTM D6093–97 (Reapproved 2003), "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using Helium Gas Pycnometer," by incorporating by reference ASTM D6093–97 (Reapproved 2016), which is the updated version of the previously approved method. ASTM D2697–03 (Reapproved 2014) is a test method that can be used to determine the volume of nonvolatile matter in clear and pigmented coatings, and ASTM D6093–97 (Reapproved 2016) is a test method that can be used to determine the percent volume of nonvolatile matter in clear and pigmented coatings.

We are amending the ALDT NESHAP to update ASTM D5066–91 (Reapproved 2001), "Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis," by incorporating by reference ASTM D5066–91 (Reapproved 2017), which is the updated version of the previously approved method. This test method covers procedures for determination of the transfer efficiency (using a weight method) under production conditions for in-plant spray application of automotive paints as outlined in Section 18 of EPA 450/3–88–018.

We are amending the ALDT NESHAP and the MMPP NESHAP to update ASTM D5965–02, "Standard Test Methods for Specific Gravity of Coating Powders," by incorporating by reference ASTM D5965–02 (Reapproved 2013), which is the updated version of the previously approved method. These test methods cover three procedures for determining the specific gravity (see definition) of coating powders, *i.e.,* Test Method A—For Testing Coating Powders, Excluding Metallics; Test Method B—For Tests Requiring Greater Precision than Test Method A, Including Metallics, Using Helium Pycnometry; and Test Method C—For Theoretical Calculation Based on Raw Material.

We are amending the ALDT NESHAP to update ASTM D6266–00a, "Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)," by incorporating by reference ASTM D6266–00a (Reapproved 2017), which is the updated version of the previously approved method. This test method describes the determination of the amount of VOC released from applied waterborne automotive coatings that is available for delivery to a VOC control device. The determination is accomplished by measuring the weight loss of a freshly coated test panel subject to evaporation or drying and by analysis of the VOC or water content in the coating.

The ASTM standards are available from ASTM International 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org/.*

The EPA is amending the ALDT NESHAP to incorporate by reference EPA–450/3–88–018 "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," for use in 40 CFR 63.3130(c), 63.3161(d), and (g), 63.3165(e), and appendix A to subpart IIII of part 63. This protocol determines the daily VOC emission rate (pounds of VOC per gallon of coating solids deposited) for a complete ALDT topcoat operation and is available in the ALDT Docket. The protocol is designed for uses in cases where topcoat emission limit is stated in units of pounds of VOC per gallon of solids deposited, compliance is demonstrated each day, and entire topcoat operation is treated as a single entity. The protocol uses the number of square feet coated on each vehicle in each booth with each coating as the basis for the daily weighting of individual transfer efficiency and bake oven exhaust control values. The method is intended to apply to primary coatings for new ALDT bodies, body parts for new ALDT, and other parts that are coated along with these bodies or body parts. It can also be downloaded from the EPA's website at the National Service Center for Environmental Publications, just access the following website at *https://nepis.epa.gov* and search either the title or document number.

The EPA decided not to include certain other VCS; these methods are impractical as alternatives because of the lack of equivalency, documentation, validation date, and other important technical and policy considerations. The search and review results have been documented and are in the memoranda titled *Voluntary Consensus Standard Results for NESHAP RTR: Surface Coating of Automobile and Light-Duty Trucks,* June 2019, *Voluntary Consensus Standard Results for NESHAP RTR: Surface Coating of Miscellaneous Metal Parts,* June 2019, and *Voluntary Consensus Standard Results for NESHAP RTR: Surface Coating of Plastic Parts and Products,* June 2019, in the ALDT Docket, MMPP Docket, and the PPP Docket, respectively.

The revised regulatory text contains references to ANSI/ASME PTC 19.10–

1981 (§ 63.3166) and ASTM D5087–02 (§ 63.3165 and appendix A to subpart IIII). Both of these standards were previously approved for these sections. That approval continues without change.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action increases the level of environmental protection for all affected populations. The results of this evaluation are contained in section IV.A of this preamble and the technical reports titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Automobile and Light-Duty truck Surface Coating Category Operations,* March 2019, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near the Surface Coating of Miscellaneous Metal Parts and Products Source Category,* May 2019, and *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Surface Coating of Plastic Parts and Products Source Category Operations,* April 2019, available in the ALDT Docket, MMPP Docket, and the PPP Docket, respectively.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements, Surface coating of automobiles and light-duty trucks, Surface coating of miscellaneous metal parts and products, Surface coating of plastic parts and products.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 et seq.

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Removing paragraph (h)(12);
■ b. Redesignating paragraphs (h)(13) through (115) as paragraphs (h)(12) through (114);
■ c. Revising newly redesignated paragraphs (h)(12), (20), (25), (28), (29), (65), (75), (77), (78), and (80);
■ d. Redesignating paragraphs (n)(1) through (24) as paragraphs (n)(2) through (25); and
■ e. Adding new paragraph (n)(1).

The revisions and addition read as follows:

§ 63.14 Incorporations by reference

* * * * *

(h) * * *

(12) ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, approved November 1, 2013, IBR approved for §§ 63.3151(b), 63.3941(b) and (c), 63.3951(c), 63.4141(b) and (c), 63.4551(c), 63.4741(b) and (c), 63.4751(c), and 63.4941(b) and (c).

* * * * *

(20) ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, approved June 1, 2015, IBR approved for §§ 63.3951(c), 63.4141(b) and (c), 63.4551(c), and 63.4741(a).

* * * * *

(25) ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.3151(a), 63.3961(j), 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4541(a), 63.4561(j), 63.4741(a), 63.4941(a) and (b), and 63.4961(j).

* * * * *

(28) ASTM D2697–86 (Reapproved 1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for §§ 63.3521(b), and 63.5160(c).

(29) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§ 63.3161(f), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

(65) ASTM D5066–91 (Reapproved 2017), Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis, approved June 1, 2017, IBR approved for § 63.3161(g).

* * * * *

(75) ASTM D5965–02 (Reapproved 2013), Standard Test Methods for Specific Gravity of Coating Powders, approved June 1, 2013, IBR approved for §§ 63.3151(b) and 63.3951(c).

* * * * *

(77) ASTM D6093–97 (Reapproved 2003), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for §§ 63.3521 and 63.5160(c).

(78) ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, approved December 1, 2016, IBR approved for §§ 63.3161(f), 63.3941(b), 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

(80) ASTM D6266–00a (Reapproved 2017), Standard Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement), approved July 1, 2017, IBR approved for § 63.3165(e).

* * * * *

(n) * * *

(1) EPA–450/3–88–018, Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations, December 1988, IBR approved for §§ 63.3130(c), 63.3161(d) and (g), 63.3165(e), and appendix A to subpart IIII.

* * * * *

Subpart IIII—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks

■ 3. Section 63.3092 is amended by revising paragraph (a)(2) to read as follows:

§ 63.3092 How must I control emissions from my electrodeposition primer system if I want to comply with the combined primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive emission limit?

* * * * *

(a) * * *

(2) 0.10 percent by weight of any organic HAP in table 5 of this subpart.

* * * * *

■ 4. Section 63.3093 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.3093 What operating limits must I meet?

(a) You are not required to meet any operating limits for any coating operation(s) without add-on controls, nor are you required to meet operating limits for any coating operation(s) that do not utilize emission capture systems and add-on controls to comply with the emission limits in § 63.3090 or § 63.3091.

(b) Except as provided in paragraph (d) of this section, for any controlled coating operation(s), you must meet the operating limits specified in table 1 to this subpart. These operating limits apply to the emission capture and add-on control systems on the coating operation(s) for which you use this option, and you must establish the operating limits during performance tests according to the requirements in § 63.3167. You must meet the operating limits at all times after you establish them.

* * * * *

■ 5. Section 63.3100 is amended by revising paragraphs (b), (d), and (f) to read as follows:

§ 63.3100 What are my general requirements for complying with this subpart?

* * * * *

(b) Before January 5, 2021, the coating operations must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.3093 at all times except during periods of SSM. On and after January 5, 2021, the coating operations must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.3093 at all times.

* * * * *

(d) Before January 5, 2021, you must always operate and maintain your affected source including all air pollution control and monitoring equipment you use for purposes of complying with this subpart according to the provisions in § 63.6(e)(1)(i). On and after January 5, 2021, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

* * * * *

(f) Before January 5, 2021, if your affected source uses emission capture systems and add-on control devices, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). The SSMP must address startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control devices. On and after January 5, 2021, the SSMP is not required.

■ 6. Section 63.3120 is amended by:

■ a. Revising paragraphs (a)(4), (a)(5) introductory text, (a)(5)(iv);

■ b. Adding paragraph (a)(5)(v);

■ c. Revising paragraphs (a)(6) introductory text and (a)(6)(iii), (vi) through (viii), (x), (xiii), and (xiv);

■ d. Adding paragraph (a)(6)(xv);

■ e. Revising paragraphs (a)(7) introductory text and (a)(7)(i) and (iii);

■ f. Adding paragraph (a)(7)(iv);

■ g. Revising paragraphs (a)(8) introductory text, (a)(8)(ii), (v) through (vii), (ix), and (xii), (a)(9) introductory text, (a)(9)(i) and (ii), and (c) introductory text; and

■ h. Adding paragraphs (d) through (h).

The revisions and additions read as follows:

§ 63.3120 What reports must I submit?

(a) * * *

(4) *No deviations.* If there were no deviations from the emission limits, operating limits, or work practices in §§ 63.3090, 63.3091, 63.3092, 63.3093, and 63.3094 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the applicable emission limitations during the reporting period. If you used control devices to comply with the emission limits, and there were no periods during which the CPMS were out of control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out of control during the reporting period.

(5) *Deviations: adhesive, sealer, and deadener.* Before January 5, 2021, if there was a deviation from the applicable emission limits in § 63.3090(c) and (d) or § 63.3091(c) and (d), the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section. On and after January 5, 2021, if there was a deviation from the applicable emission limits in § 63.3090(c) and (d) or § 63.3091(c) and (d), the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (v) of this section.

* * * * *

(iv) The reason for the deviation (including unknown cause, if applicable).

(v) On and after January 5, 2021, the number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over the applicable emission limit in § 63.3090(c) and (d) or § 63.3091(c) and (d), and a description of the method used to estimate the emissions.

(6) *Deviations:* combined electrodeposition primer, primer-surfacer, topcoat, final repair, glass bonding primer and glass bonding adhesive, or combined primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c). Before January 5, 2021, if there was a deviation from the applicable emission limits in § 63.3090(a) or (b) or § 63.3091(a) or (b) or the applicable operating limit(s) in table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (xiv) of this section. On and after January 5, 2021, if there was a deviation from the applicable emission limits in § 63.3090(a) or (b) or § 63.3091(a) or (b) or the applicable operating limit(s) in table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (xv) of this section.

* * * * *

(iii) The date and time that each malfunction of the capture system or add-on control devices used to control emissions from these operations started and stopped.

* * * * *

(vi) Before January 5, 2021, the date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks. On and after January 5, 2021, for each instance that the CPMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and descriptions of corrective actions taken.

(vii) Before January 5, 2021, the date and time period that each CPMS was out of control, including the information in § 63.8(c)(8). On and after January 5, 2021, for each instance that the CPMS was out of control, as specified in § 63.8(c)(7), the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(viii) Before January 5, 2021, The date and time period of each deviation from an operating limit in table 1 to this subpart; date and time period of each bypass of an add-on control device; and whether each deviation occurred during a period of SSM or during another period. On and after January 5, 2021, the date, time, and duration of each deviation from an operating limit in table 1 to this subpart; and the date, time, and duration of each bypass of an add-on control device.

* * * * *

(x) Before January 5, 2021, a breakdown of the total duration of the deviations from each operating limit in table 1 to this subpart and bypasses of each add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after January 5, 2021, a breakdown of the total duration of the deviations from each operating limit in table 1 to this subpart and bypasses of each add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(xiii) Before January 5, 2021, for each deviation from the work practice standards a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation. On and after January 5, 2021, for deviations from the work practice standards, the number of deviations, and, for each deviation, the information in paragraphs (a)(6)(xiii)(A) and (B) of this section.

(A) A description of the deviation, the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 63.3100(d).

(B) A list of the affected sources or equipment for which a deviation occurred, the cause of the deviation (including unknown cause, if applicable), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(xiv) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, for deviations from an emission limitation in § 63.3090(a) or (b) or § 63.3091(a) or (b) or operating limit in table 1 of this subpart, a statement of the cause of each deviation (including unknown cause, if applicable).

(xv) On and after January 5, 2021, for each deviation from an emission limitation in § 63.3090(a) or (b), or § 63.3091(a) or (b), or operating limit in table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.3090(a) or (b) or § 63.3091(a) or (b), and a description of the method used to estimate the emissions.

(7) *Deviations: Separate electrodeposition primer organic HAP content limit.* Before January 5, 2021, if you used the separate electrodeposition primer organic HAP content limits in § 63.3092(a), and there was a deviation from these limits, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (iii) of this section. On and after January 5, 2021, if you used the separate electrodeposition primer organic HAP content limits in § 63.3092(a), and there was a deviation from these limits, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (iv) of this section.

(i) Identification of each material used that deviated from the emission limit, and the date, time, and duration each was used.

* * * * *

(iii) A statement of the cause of each deviation (including unknown case, if applicable).

(iv) On and after January 5, 2021, the number of deviations, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.3092(a), and a description of the method used to estimate the emissions.

(8) *Deviations: Separate electrodeposition primer bake oven capture and control limitations.* Before January 5, 2021, if you used the separate electrodeposition primer bake oven capture and control limitations in § 63.3092(b), and there was a deviation from the limitations in § 63.3092(b) or the applicable operating limit in table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(8)(i) through (xii) of this section. On and after January 5, 2021, if you used the separate electrodeposition primer bake oven capture and control limitations in § 63.3092(b), and there was a deviation from the limitations in § 63.3092(b) or the applicable operating limit in table 1 to this subpart, the semiannual compliance report must contain the information in paragraphs (a)(8)(i) through (xiv) of this section.

* * * * *

(ii) The date and time that each malfunction of the capture systems or control devices used to control emissions from the electrodeposition primer bake oven started and stopped.

* * * * *

(v) Before January 5, 2021, the date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks. On and after January 5, 2021, for each instance that the CPMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and descriptions of corrective actions taken.

(vi) Before January 5, 2021, the date, time, and duration that each CPMS was out of control, including the information in § 63.8(c)(8). On and after January 5, 2021, for each instance that the CPMS was out of control, as specified in § 63.8(c)(7), the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(vii) Before January 5, 2021, the date and time period of each deviation from an operating limit in table 1 to this subpart; date and time period of each bypass of an add-on control device; and whether each deviation occurred during a period of SSM or during another period. On and after January 5, 2021, the date, time, and duration of each deviation from an operating limit in table 1 to this subpart; and the date,

time, and duration of each bypass of an add-on control device.

* * * * *

(ix) Before January 5, 2021, a breakdown of the total duration of the deviations from each operating limit in table 1 to this subpart and bypasses of each add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after January 5, 2021, a breakdown of the total duration of the deviations from each operating limit in table 1 to this subpart and bypasses of each add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(xii) A statement of the cause of each deviation (including unknown cause, if applicable).

(9) *Deviations: Work practice plans.* Before January 5, 2021, if there was a deviation from an applicable work practice plan developed in accordance with § 63.3094(b) or (c), the semiannual compliance report must contain the information in paragraphs (a)(9)(i) through (iii) of this section. On and after January 5, 2021, if there were deviations from an applicable work practice plan developed in accordance with § 63.3094(b) or (c), the semiannual compliance report must contain the number of deviations, and, for each deviation, the information in paragraphs (a)(9)(i) through (iii) of this section.

(i) Before January 5, 2021, the time period during which each deviation occurred. On and after January 5, 2021, the date, time, and duration of the deviation.

(ii) Before January 5, 2021, the nature of each deviation. On and after January 5, 2021, the nature of the deviation, including a list of the affected sources or equipment for which the deviation occurred, and the cause of the deviation (including unknown cause, if applicable).

* * * * *

(c) *SSM reports.* Before January 5, 2021, if you used add-on control devices and you had a SSM during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section. On and after January 5, 2021, the reports specified in paragraphs (c)(1) and (2) of this section are not required.

* * * * *

(d) *Performance test reports.* On and after January 5, 2021, you must submit the results of the performance test required in paragraph (b) of this section following the procedure specified in paragraphs (d)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*)). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (c)(1) of this section is Confidential Business Information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (c)(1) of this section.

(e) *Initial notification reports.* On and after January 5, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in §§ 63.9(h) and 63.3110(c) to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(f) *Semiannual compliance reports.* On and after January 5, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in paragraph (a) of this section to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The owner or operator must use the appropriate electronic template on the CEDRI Web for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used

electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Reporting during EPA system outages.* If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of the EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(h) *Reporting during force majeure events.* If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Section 63.3130 is amended by revising paragraphs (c)(4) and (5), (g), and (h) and adding paragraph (p) to read as follows:

§ 63.3130 What records must I keep?

* * * * *

(c) * * *

(4) A record of the calculation of the organic HAP emission rate for electrodeposition primer, primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c) for each month if subject to the emission limit of § 63.3090(a) or § 63.3091(a). This record must include all raw data, algorithms, and intermediate calculations. If the guidelines presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14), are used, you must keep records of all data input to this protocol. If these data are maintained as electronic files, the electronic files, as well as any paper copies must be maintained. These data must be provided to the permitting authority on request on paper, and in (if calculations are done electronically) electronic form.

(5) A record of the calculation of the organic HAP emission rate for primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c) for each month if subject to the emission limit of § 63.3090(b) or § 63.3091(b), and a record of the weight fraction of each organic HAP in each material added to the electrodeposition primer system if subject to the limitations of § 63.3092(a). This record must include all raw data, algorithms, and intermediate calculations. If the guidelines presented in "Protocol for Determining Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14) are used, you must keep records of all data input to this protocol. If these data are maintained as electronic files, the electronic files, as well as any paper copies must be maintained. These data must be provided to the permitting authority on request on paper, and in (if calculations are done electronically) electronic form.

* * * * *

(g) Before January 5, 2021, a record of the date, time, and duration of each deviation, and for each deviation, a record of whether the deviation occurred during a period of SSM. On and after January 5, 2021, for each deviation from an emission limitation, operating limit, or work practice plan reported under § 63.3120(a)(5) through (9), a record of the information specified in paragraphs (g)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, and for each deviation, the information as reported under § 63.3120(a)(5) through (9).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.3120(a)(5) through (9).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.3090(a) through (d) or § 63.3091(a) through (d) or any applicable operating limit in table 1 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.3120(a)(5) through (9).

(4) A record of actions taken to minimize emissions in accordance with § 63.3100(d) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(h) Before January 5, 2021, the records required by § 63.6(e)(3)(iii) through (v) related to SSM. On and after January 5, 2021, the provisions of this paragraph no longer apply.

* * * * *

(p) On and after January 5, 2021, any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 8. Section 63.3131 is amended by revising paragraph (a) to read as follows:

§ 63.3131 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database. On and after January 5, 2021, any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 9. Section 63.3151 is amended by revising paragraphs (a)(1)(i), (a)(2) and (4), and (b) to read as follows.

§ 63.3151 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(1) * * *

(i) Count each organic HAP in table 5 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in table 5 to this subpart) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (*e.g.,* 0.3791).

* * * * *

(2) *EPA Method 24 (appendix A–7 to 40 CFR part 60).* For coatings, you may use EPA Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. As an alternative to using EPA Method 24, you may use ASTM D2369–10 (Reapproved 2015)[e] (incorporated by reference, *see* § 63.14).

* * * * *

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP in table 5 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in table 5 of this subpart) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence, unless after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

* * * * *

(b) *Determine the density of each material used.* Determine the density of each material used during the compliance period from test results using ASTM D1475–13 (incorporated by reference, *see* § 63.14) or for powder coatings, test method A or test method B of ASTM D5965–02 (Reapproved 2013) (incorporated by reference, *see* § 63.14), or information from the supplier or manufacturer of the material. If there is disagreement between ASTM D1475–13 test results or ASTM D5965–02 (Reapproved 2013), test method A or test method B test results and the supplier's or manufacturer's information, the test results will take precedence unless after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

* * * * *

■ 10. Section 63.3160 is amended by revising the section heading and paragraph (b)(1) to read as follows:

§ 63.3160 By what date must I conduct initial performance tests and other initial compliance demonstrations?

* * * * *

(b) * * *

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.3083. You must conduct an initial performance test of each capture system and add-on control device according to the procedures in §§ 63.3164 through 63.3166 and establish the operating limits required by § 63.3093 no later than the compliance date specified in § 63.3083.

* * * * *

■ 11. Section 63.3161 is amended by revising paragraphs (a), (d), (f)(1), (g), and (k)(3) to read as follows:

§ 63.3161 How do I demonstrate initial compliance?

(a) You must meet all of the requirements of this section to demonstrate initial compliance. To demonstrate initial compliance, the organic HAP emissions from the combined electrodeposition primer, primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive operations plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c) must meet the applicable emission limitation in § 63.3090(a) or § 63.3091(a) and the applicable operating limits and work practice standards in §§ 63.3093 and 63.3094.

* * * * *

(d) *Compliance with emission limits.* You must follow the procedures in paragraphs (e) through (o) of this section to demonstrate compliance with the applicable emission limit in § 63.3090(a) or § 63.3091(a). You may also use the guidelines presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" EPA–450/3–88–018 (incorporated by reference, *see* § 63.14), in making this demonstration.

* * * * *

(f) * * *

(1) *ASTM Method D2697–03 (Reapproved 2014) or ASTM Method D6093–97 (Reapproved 2016).* You may use ASTM D2697–03 (Reapproved 2014) (incorporated by reference, *see* § 63.14), or ASTM D6093–97 (Reapproved 2016) (incorporated by reference, *see* § 63.14), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

* * * * *

(g) *Determine the transfer efficiency for each coating.* You must determine the transfer efficiency for each primer-

surfacer and topcoat coating, and for all coatings, except for deadener and for adhesive and sealer that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c) using ASTM D5066–91 (Reapproved 2017) (incorporated by reference, *see* § 63.14) or the guidelines presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14). You may conduct transfer efficiency testing on representative coatings and for representative spray booths as described in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018. You may assume 100-percent transfer efficiency for electrodeposition primer coatings, glass bonding primers, and glass bonding adhesives. For final repair coatings, you may assume 40-percent transfer efficiency for air atomized spray and 55-percent transfer efficiency for electrostatic spray and high volume, low pressure spray. For blackout, chip resistant edge primer, interior color, in-line repair, lower body anti-chip coatings, or underbody anti-chip coatings, you may assume 40-percent transfer efficiency for air atomized spray, 55-percent transfer efficiency for electrostatic spray and high volume-low pressure spray, and 80-percent transfer efficiency for airless spray.

* * * * *

(k) * * *

(3) Determine the mass fraction of volatile organic matter for each coating and thinner used in the coating operation controlled by the solvent recovery system during the month, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using EPA Method 24 of 40 CFR part 60, appendix A–7, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of EPA Method 24 of 40 CFR part 60, appendix A–7, or an approved alternative method, the test method results will govern unless after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

* * * * *

■ 12. Section 63.3163 is amended by revising the section heading and paragraph (c) introductory text, adding paragraph (c)(3), and revising paragraphs (f) and (h) to read as follows:

§ 63.3163 How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limitations?

* * * * *

(c) You must demonstrate continuous compliance with each operating limit required by § 63.3093 that applies to you, as specified in table 1 to this subpart, and you must conduct performance tests as specified in paragraph (c)(3) of this section.

* * * * *

(3) Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.3161(k) for controlled coating operations, you must conduct periodic performance tests of add-on controls and establish the operating limits required by § 63.3093 within 5 years following the previous performance test. You must conduct the first periodic performance test before July 8, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after July 8, 2022. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. For any control device for which you are using the catalytic oxidizer control option at § 63.3167(b) and following the catalyst maintenance procedures in § 63.3167(b)(6), you are not required to conduct periodic control device performance testing as specified by this paragraph. For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph. The requirements of this paragraph do not apply to measuring emission capture system efficiency.

* * * * *

(f) If there were no deviations from the emission limitations, submit a statement as part of the semiannual compliance report that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.3090(a) or § 63.3091(a), § 63.3090(b) or § 63.3091(b), or § 63.3092(a) or § 63.3092(b), you achieved the operating limits required by § 63.3093, and you achieved the work practice standards required by § 63.3094 during each compliance period.

* * * * *

(h) Before January 5, 2021, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period you identify as a SSM are violations according to the provisions in § 63.6(e). On and after January 5, 2021, the provisions of this paragraph no longer apply.

* * * * *

■ 13. Section 63.3164 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.3164 What are the general requirements for performance tests?

(a) You must conduct each applicable performance test required by §§ 63.3160, 63.3163, and 63.3171 according to the requirements in § 63.7(e)(1) and under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Before January 5, 2021, operations during periods of SSM, and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. On and after January 5, 2021, operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be

necessary to determine the conditions of performance tests.

* * * * *

■ 14. Section 63.3165 is amended by revising the introductory text and paragraphs (e) introductory text, the definition of "$Wvoc_{c,i}$" in Equation 6 of paragraph (e)(2), the definition of "$Wvoc_{c,i}$" in Equation 7 of paragraph (e)(3), and the definition of "$W_{s,i}$" in Equation 8 of paragraph (e)(4) to read as follows:

§ 63.3165 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by §§ 63.3160 and 63.3163. For purposes of this subpart, a spray booth air seal is not considered a natural draft opening in a PTE or a temporary total enclosure provided you demonstrate that the direction of air movement across the interface between the spray booth air seal and the spray booth is into the spray booth. For purposes of this subpart, a bake oven air seal is not considered a natural draft opening in a PTE or a temporary total enclosure provided you demonstrate that the direction of air movement across the interface between the bake oven air seal and the bake oven is into the bake oven. You may use lightweight strips of fabric or paper, or smoke tubes to make such demonstrations as part of showing that your capture system is a PTE or conducting a capture efficiency test using a temporary total enclosure. You cannot count air flowing from a spray booth air seal into a spray booth as air flowing through a natural draft opening into a PTE or into a temporary total enclosure unless you elect to treat that spray booth air seal as a natural draft opening. You cannot count air flowing from a bake oven air seal into a bake oven as air flowing through a natural draft opening into a PTE or into a temporary total enclosure unless you elect to treat that bake oven air seal as a natural draft opening.

* * * * *

(e) *Panel testing to determine the capture efficiency of flash-off or bake oven emissions.* You may conduct panel testing to determine the capture efficiency of flash-off or bake oven emissions using ASTM D5087–02 (incorporated by reference, *see* § 63.14), ASTM D6266–00a (Reapproved 2017) (incorporated by reference, *see* § 63.14), or the guidelines presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14). You may conduct panel testing on representative coatings as described in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018. The results of these panel testing procedures are in units of mass of VOC per volume of coating solids deposited and must be converted to a percent value for use in this subpart. If you panel test representative coatings, then you may convert the panel test result for each representative coating either to a unique percent capture efficiency for each coating grouped with that representative coating by using coating specific values for the volume of coating solids deposited per volume of coating used, mass of VOC per volume of coating, volume fraction solids, transfer efficiency, density and mass fraction VOC in Equations 4 through 6 of this section; or to a composite percent capture efficiency for the group of coatings by using composite values for the group of coatings for the volume of coating solids deposited per volume of coating used and for the mass of VOC per volume of coating, and average values for the group of coatings for volume fraction solids, transfer efficiency, density and mass fraction VOC in Equations 4 through 6 of this section. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency for that coating by using coating specific values for the volume of coating solids deposited per volume of coating used, mass of VOC per volume of coating, volume fraction solids, transfer efficiency, density, and mass fraction VOC in Equations 4 through 6 of this section. Panel test results expressed in units of mass of VOC per volume of coating solids deposited must be converted to percent capture efficiency using Equation 4 of this section. An alternative for using panel test results expressed in units of mass of VOC per mass of coating solids deposited is presented in paragraph (e)(3) of this section.

* * * * *

(2) * * *

$Wvoc_{c,i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

(3) * * *

$Wvoc_{c,i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

(4) * * *

$W_{s,i}$ = Mass fraction of coating solids for coating, i, or average mass fraction of coating solids for the group of coatings including coating, i, kg coating solids per kg coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

* * * * *

■ 15. Section 63.3166 is amended by revising the introductory text and paragraphs (a)(1) through (4) and (b) introductory text, and adding paragraph (b)(4) to read as follows:

§ 63.3166 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.3160, § 63.3163, or § 63.3171. You must conduct three test runs as specified in § 63.7(e)(3), and each test run must last at least 1 hour.

(a) * * *

(1) Use EPA Method 1 or 1A of appendix A–1 to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use EPA Method 2, 2A, 2C, 2D, or 2F of appendix A–1, or 2G of appendix A–2 to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use EPA Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. The ANSI/ASME PTC 19.10–1981 (incorporated by reference, *see* § 63.14), may be used as an alternative to EPA Method 3B.

(4) Use EPA Method 4 of appendix A–3 to 40 CFR part 60 to determine stack gas moisture.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either EPA Method 25 or 25A of appendix A–7 to 40 CFR part 60, as specified in paragraphs (b)(1) through (4) of this section. You must use the same method for both the inlet and outlet measurements.

* * * * *

(4) You may use EPA Method 18 of appendix A–6 to 40 CFR part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

* * * * *

■ 16. Section 63.3167 is amended by revising the section heading, the introductory text, and paragraph (f)(1) to read as follows:

§ 63.3167 How do I establish the add-on control device operating limits during performance tests?

During the performance tests required by §§ 63.3160, 63.3163, and 63.3171 (and described in §§ 63.3164 and 63.3166), you must establish the operating limits required by § 63.3093 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.3093.

* * * * *

(f) * * *

(1) During the capture efficiency determination required by §§ 63.3160 and 63.3163 and described in §§ 63.3164 and 63.3165, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

* * * * *

■ 17. Section 63.3168 is amended by revising paragraphs (a)(4) through (7) and (c)(3) introductory text to read as follows:

§ 63.3168 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) * * *

(4) You must maintain the CPMS at all times in accordance with § 63.3100(d) and have readily available necessary parts for routine repairs of the monitoring equipment.

(5) Before January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments). On and after January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating in accordance with § 63.3100(d).

(6) Before January 5, 2021, you must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits. On and after January 5, 2021, startups and shutdowns are normal operation for this source category. Emissions from these activities are to be included when determining if the standards specified in §§ 63.3090, 63.3091, 63.3092, 63.4292, and 63.4293 are being attained. You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Before January 5, 2021, any period for which the monitoring system is out of control and data are not available for required calculations is a deviation from the monitoring requirements. On and after January 5, 2021, except for periods of required quality assurance or control activities, any period during which the CPMS fails to operate and record data continuously as required by paragraph (a)(1) of this section, or generates data that cannot be included in calculating averages as specified in this paragraph (a)(7) constitutes a deviation from the monitoring requirements.

* * * * *

(c) * * *

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a)(1) through (6) and (c)(3)(i) through (vii) of this section for each gas temperature monitoring device. For the purposes of this paragraph (c)(3), a thermocouple is part of the temperature sensor.

* * * * *

■ 18. Section 63.3171 is amended by revising paragraphs (a) and (e)(3) to read as follows:

§ 63.3171 How do I demonstrate initial compliance?

(a) You must meet all of the requirements of this section to demonstrate initial compliance. To demonstrate initial compliance, the organic HAP emissions from the combined primer-surfacer, topcoat, final repair, glass bonding primer, and glass bonding adhesive operations plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems, used in coating operations added to the affected source pursuant to § 63.3082(c) must meet the applicable emission limitation in § 63.3090(b) or § 63.3091(b); the organic HAP emissions from the electrodeposition primer operation must meet the applicable emissions limitations in § 63.3092(a) or (b); and you must meet the applicable operating limits and work practice standards in §§ 63.3093 and 63.3094.

* * * * *

(e) * * *

(3) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (e)(1) and (2) of this section, such as manufacturer's formulation data, if it represents each organic HAP in Table 5 to this subpart that is present at 0.1 percent by mass, and at 1.0 percent by mass or more for other compounds. If there is a disagreement between such information and results of a test conducted according to paragraph (e)(1) or (2) of this section, then the test method results will take precedence unless after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

* * * * *

■ 19. Section 63.3176 is amended by revising the definition of "*Deviation*" to read as follows:

§ 63.3176 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before January 5, 2021, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, operating limit, or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit or operating limit or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart; and

(2) On and after January 5, 2021, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

■ 20. Table 2 to subpart IIII of part 63 is revised to read as follows:

TABLE 2 TO SUBPART IIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart IIII	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart IIII is also specified in § 63.3081.
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart IIII.
§ 63.1(c)(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.3176.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(2)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Fragmentation	Yes.	
§ 63.5(a)	Preconstruction Review Applicability.	Yes.	
§ 63.5(b)(1), (3), (4), (6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)(1)(i)–(ii)(F), (d)(1)(ii)(H), (d)(1)(ii)(J), (d)(1)(iii), (d)(2)–(4).	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(5), (b)(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.3083 specifies the compliance dates.
§ 63.6(c)(1), (2), (5)	Compliance Dates for Existing Sources.	Yes	Section 63.3083 specifies the compliance dates.
§ 63.6(e)(1)(i)–(ii)	Operation and Maintenance	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3100(d) for general duty requirement.
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)(i), (e)(3)(iii)–(ix)	SSMP	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(1)	Compliance Except During SSM	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes.	
§ 63.6(g)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart IIII does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14), (16)	Extension of Compliance	Yes.	
63.6(j)	Presidential Compliance Exemption.	Yes.	

TABLE 2 TO SUBPART IIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart IIII	Explanation
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.3164 and 63.3166.
§ 63.7(a)(2) except (a)(2)(i)–(viii)	Performance Test Requirements—Dates.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.3160 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)–(4)	Performance Tests Required By the Administrator, Force Majeure.	Yes.	
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.7(e)(1)	Conduct of performance tests	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3164.
§ 63.7(e)(2)–(4)	Conduct of performance tests	Yes.	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.3168.
§ 63.8(a)(4)	Additional Monitoring Requirements.	No	Subpart IIII does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes before January 5, 2021. No on and after January 5, 2021.	Section 63.3168 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
63.8(c)(2)–(3)	CMS Operation and Maintenance	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in § 63.3168.
§ 63.8(c)(4)	CMS	No	Section 63.3168 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply with the standards.
§ 63.8(c)(5)	COMS	No	Subpart IIII does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.3168 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply with the standards.

TABLE 2 TO SUBPART IIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart IIII	Explanation
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods Reporting.	No	Section 63.3120 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart IIII does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method.	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	No	Subpart IIII does not require the use of CEMS.
§ 63.8(g)	Data Reduction	No	Sections 63.3167 and 63.3168 specify monitoring data reduction.
§ 63.9(a)	Notification Requirements	Yes.	
§ 63.9(b)(1)–(2)	Initial Notifications	Yes.	
§ 63.9(b)(4)(i), (b)(4)(v), (b)(5)	Application for Approval of Construction or Reconstruction.	Yes.	
§ 63.9(c)	Request for Extension of Compliance.	Yes.	
§ 63.9(d)	Special Compliance Requirement Notification.	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart IIII does not have opacity or visible emission standards.
§ 63.9(g)	Additional Notifications When Using CMS.	No	Subpart IIII does not require the use of CEMS.
§ 63.9(h)(1)–(3), (5)–(6)	Notification of Compliance Status	Yes	Section 63.3110 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements.	Yes	Additional requirements are specified in §§ 63.3130 and 63.3131.
§ 63.10(b)(2)(i)–(ii)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns and of Failures to Meet Standards.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* 63.3130(g).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes.	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3130(g)(4) for a record of actions taken to minimize emissions during a deviation from the standard.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS Malfunctions.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3130(g) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(vii)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart IIII does not require the use of CEMS.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	

TABLE 2 TO SUBPART IIII OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART IIII OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart IIII	Explanation
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.3130(g) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(c)(10)–(14)		Yes.	
§ 63.10(c)(15)	Records Regarding the SSM Plan	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.3120.
§ 63.10(d)(2)	Report of Performance Test Results.	Yes	Additional requirements are specified in § 63.3120(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart IIII does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	SSM Reports	Yes before January 5, 2021. No on and after January 5, 2021.	*See* 63.3120(a)(6).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart IIII does not require the use of CEMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.3120(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart IIII does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares.	No	Subpart IIII does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	IBR	Yes.	
§ 63.15	Availability of Information/Confidentiality.	Yes.	

■ 21. Table 5 to subpart IIII of part 63 is added to read as follows:

TABLE 5 TO SUBPART IIII OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3

TABLE 5 TO SUBPART IIII OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

■ 22. Appendix A to Subpart IIII of part 63 is amended by revising sections 2.1, 2.2, and 4.1 and the definitions of "$W_{s,i}$" and "$Wvoc_{c,i}$" in Equation A–6 in section 4.2 to read as follows:

Appendix A to Subpart IIII of Part 63—Determination of Capture Efficiency of Automobile and Light-Duty Truck Spray Booth Emissions From Solvent-Borne Coatings Using Panel Testing

* * * * *

2.1 You may conduct panel testing to determine the capture efficiency of spray booth emissions. You must follow the instructions and calculations in this appendix A, and use the panel testing procedures in ASTM Method D5087–02 (incorporated by reference, *see* § 63.14), or the guidelines presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14). You must weigh panels at the points described in section 2.5 of this appendix A and perform calculations as described in sections 3 and 4 of this appendix A. You may

conduct panel tests on the production paint line in your facility or in a laboratory simulation of the production paint line in your facility.

2.2 You may conduct panel testing on representative coatings as described in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14). If you panel test representative coatings, then you may calculate either a unique percent capture efficiency value for each coating grouped with that representative coating, or a composite percent capture efficiency value for the group of coatings. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency value for that coating.

* * * * *

4.1 If you panel test representative coatings, then you may convert the panel test result for each representative coating from section 3.3 of this appendix A either to a unique percent capture efficiency value for each coating grouped with that representative coating by using coating specific values for the mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A, or to a composite percent capture efficiency value for the group of coatings by using the average values for the group of coatings for mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency value by using coating specific values for the mass fraction coating solids and mass fraction VOC in section 4.2 of this appendix A. The mass fraction of VOC in the coating and the mass fraction of solids in the coating must be determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or by following the guidelines for combining analytical VOC content and formulation solvent content presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

4.2 * * *

$W_{s,\,i}$ = Mass fraction of coating solids for coating, i, or average mass fraction of coating solids for the group of coatings including coating, i, grams coating solids per gram coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or by following the guidelines for combining analytical VOC content and formulation solvent content presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

$Wvoc_{c,\,i}$ = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings including coating, i, grams VOC per grams coating, determined by EPA Method 24 (appendix A–7 to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA–450/3–88–018 (incorporated by reference, *see* § 63.14).

* * * * *

Subpart MMMM—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products

■ 23. Section 63.3900 is amended by revising paragraphs (a)(2)(i) and (ii), (b), and (c) to read as follows:

§ 63.3900 What are my general requirements for complying with this subpart?

(a) * * *

(2) * * *

(i) Before January 5, 2021, the coating operation(s) must be in compliance with the applicable emission limit in § 63.3890 at all times except during periods of SSM. On or after January 5, 2021, you must be in compliance with the applicable emission limits in § 63.3890 and the operating limits in table 1 of this subpart at all times.

(ii) Before January 5, 2021, the coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.3892 at all times except during periods of SSM and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.3961(j). On or after January 5, 2021, the coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.3892 at all times, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.3961(j).

* * * * *

(b) Before January 5, 2021, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On and after January 5, 2021, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) Before January 5, 2021, if your affected source uses an emission capture system and add-on control device, you must develop a written SSMP according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures. On and after January 5, 2021, the SSMP is not required.

■ 24. Section 63.3920 is amended by:

■ a. Revising paragraphs (a)(5) introductory text and (a)(5)(i) and (iv);

■ b. Adding paragraph (a)(5)(v);

■ c. Revising paragraphs (a)(6) introductory text and (a)(6)(iii);

■ d. Adding paragraph (a)(6)(iv);

■ e. Revising paragraphs (a)(7) introductory text and (a)(7)(iii), (vi) through (viii), (x), (xiii), and (xiv);

■ f. Adding paragraph (a)(7)(xv);

■ g. Revising paragraph (c) introductory text; and

■ h. Adding paragraphs (d) through (h).

The revisions and additions read as follows:

§ 63.3920 What reports must I submit?

(a) * * *

(5) *Deviations: Compliant material option.* If you used the compliant material option and there was a deviation from the applicable organic HAP content requirements in § 63.3890, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (v) of this section.

(i) Identification of each coating used that deviated from the applicable emission limit, and each thinner and/or other additive, and cleaning material used that contained organic HAP, and the dates, time and duration each was used.

* * * * *

(iv) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, a statement of the cause of each deviation

(including unknown cause, if applicable).

(v) On and after January 5, 2021, the number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.3890, a description of the method used to estimate the emissions, and the actions you took to minimize emissions in accordance with § 63.3900(b).

(6) *Deviations: Emission rate without add-on controls option.* If you used the emission rate without add-on controls option and there was a deviation from the applicable emission limit in § 63.3890, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iv) of this section.

* * * * *

(iii) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, a statement of the cause of each deviation (including unknown cause, if applicable).

(iv) On and after January 5, 2021, the number of deviations and, for each deviation, the date, time, duration, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.3890, a description of the method used to estimate the emissions, and the actions you took to minimize emissions in accordance with § 63.3900(b).

(7) *Deviations: Emission rate with add-on controls option.* If you used the emission rate with add-on controls option and there was a deviation from the applicable emission limit in § 63.3890 or the applicable operating limit(s) in table 1 to this subpart (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), before January 5, 2021, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xiv) of this section. This includes periods of SSM during which deviations occurred. On and after January 5, 2021, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xii), (xiv), and (xv) of this section. If you use the emission rate with add-on controls option and there was a deviation from the applicable work practice standards in § 63.3893(b), the semiannual compliance report must contain the information in paragraph (a)(7)(xiii) of this section.

* * * * *

(iii) The date and time that each malfunction of the capture system or add-on control devices started and stopped.

* * * * *

(vi) Before January 5, 2021, the date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks. On and after January 5, 2021, the number of instances that the CPMS was inoperative, and for each instance, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and the actions you took to minimize emissions in accordance with § 63.3900(b).

(vii) Before January 5, 2021, the date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8). On and after January 5, 2021, the number of instances that the CPMS was out of control as specified in § 63.8(c)(7) and, for each instance, the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(viii) Before January 5, 2021, the date and time period of each deviation from an operating limit in table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of SSM or during another period. On and after January 5, 2021, the number of deviations from an operating limit in table 1 to this subpart and, for each deviation, the date, time, and duration of each deviation; and the date, time, and duration of any bypass of the add-on control device.

* * * * *

(x) Before January 5, 2021, a breakdown of the total duration of the deviations from the operating limits in table 1 of this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after January 5, 2021, a breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(xiii) Before January 5, 2021, for each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation. On and after January 5, 2021, for deviations from the work practice standards, the number of deviations, and, for each deviation, the information in paragraphs (a)(7)(xiii)(A) and (B) of this section:

(A) A description of the deviation; the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 63.3900(b).

(B) The description required in paragraph (a)(7)(xiii)(A) of this section must include a list of the affected sources or equipment for which a deviation occurred and the cause of the deviation (including unknown cause, if applicable).

(xiv) Before January 5, 2021, statement of the cause of each deviation. On and after January 5, 2021, for deviations from an emission limit in § 63.3890 or an operating limit in table 1 to this subpart, a statement of the cause of each deviation (including unknown cause, if applicable) and the actions you took to minimize emissions in accordance with § 63.3900(b).

(xv) On and after January 5, 2021, for each deviation from an emission limit in § 63.3890 or operating limit in table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.3890 or operating limit in table 1 to this subpart, and a description of the method used to estimate the emissions.

* * * * *

(c) *SSM reports.* Before January 5, 2021, if you used the emission rate with add-on controls option and you had a SSM during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section. On and after January 5, 2021, the reports specified in paragraphs (c)(1) and (2) of this section are not required.

* * * * *

(d) *Performance test reports.* On and after January 5, 2021, you must submit the results of the performance test required in §§ 63.3940 and 63.3950 following the procedure specified in paragraphs (d)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test,

you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov//*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (d)(1) of this section is Confidential Business Information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (d)(1) of this section.

(e) *Initial notification reports.* On and after January 5, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in §§ 63.9(h) and 63.3910(c) to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(f) *Semiannual compliance reports.* On and after January 5, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in paragraph (a) of this section to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The owner or operator must use the appropriate electronic template on the CEDRI website for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Reporting during EPA system outages.* If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of the EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time, and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(h) *Reporting during force majeure events.* If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a

claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 25. Section 63.3930 is amended by revising paragraphs (j), (k) introductory text, and (k)(1) and (2) to read as follows:

§ 63.3930 What records must I keep?

* * * * *

(j) Before January 5, 2021, you must keep records of the date, time, and duration of each deviation. On and after January 5, 2021, for each deviation from an emission limitation reported under § 63.3920(a)(5) through (7), a record of the information specified in paragraphs (j)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, as reported under § 63.3920(a)(5) through (7).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.3920(a)(5) through (7).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.3890 or any applicable operating limit in table 1 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.3920(a)(5) through (7).

(4) A record of actions taken to minimize emissions in accordance with § 63.3900(b) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(k) If you use the emission rate with add-on controls option, you must also keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) Before January 5, 2021, for each deviation, a record of whether the deviation occurred during a period of SSM. On and after January 5, 2021, a record of whether the deviation occurred during a period of SSM is not required.

(2) Before January 5, 2021, the records in § 63.6(e)(3)(iii) through (v) related to SSM. On and after January 5, 2021, the records in § 63.6(e)(3)(iii) through (v) related to SSM are not required.

* * * * *

■ 26. Section 63.3931 is amended by revising paragraph (a) to read as follows:

§ 63.3931 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database. On and after January 5, 2021, any records required to be maintained by this subpart that are in reports that were submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 27. Section 63.3941 is amended by revising paragraphs (a)(1)(i), (a)(4), (b)(1), the definition of "D_{avg}" in Equation 1 of paragraph (b)(4), and paragraph (c) to read as follows:

§ 63.3941 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(1) * * *

(i) Count each organic HAP in table 5 to this subpart that is measured to be present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in table 5 to this subpart) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (*e.g.,* 0.3791).

* * * * *

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP in table 5 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in table 5 to this subpart) is 0.5 percent of the material by mass, you do not have to count it. For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, you may rely on manufacturer's data that expressly states the organic HAP or volatile matter mass fraction emitted. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence unless, after consultation, you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

* * * * *

(b) * * *

(1) *ASTM Method D2697–03 (Reapproved 2014) or D6093–97 (Reapproved 2016).* You may use ASTM D2697–03 (Reapproved 2014) (incorporated by reference, *see* § 63.14), or D6093–97 (Reapproved 2016) (incorporated by reference, *see* § 63.14), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

* * * * *

(4) * * *

D_{avg} = Average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM D1475–13 (incorporated by reference, *see* § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM D1475–13 test results and other information sources, the test results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

(c) *Determine the density of each coating.* Determine the density of each coating used during the compliance period from test results using ASTM D1475–13 (incorporated by reference, *see* § 63.14), information from the supplier or manufacturer of the material, or specific gravity data for pure chemicals. If there is disagreement between ASTM D1475–13 test results and the supplier's or manufacturer's information, the test results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

* * * * *

■ 28. Section 63.3951 is amended by revising paragraph (c) to read as follows:

§ 63.3951 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(c) *Determine the density of each material.* Determine the density of each liquid coating, thinner and/or other additive, and cleaning material used during each month from test results using ASTM D1475–13 or ASTM D2111–10 (Reapproved 2015) (both incorporated by reference, *see* § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If you are including powder coatings in the compliance determination, determine the density of powder coatings, using ASTM D5965–02 (Reapproved 2013) (incorporated by reference, *see* § 63.14), or information from the supplier. If there is disagreement between ASTM D1475–13 or ASTM D2111–10 (Reapproved 2015) test results and other such information sources, the test results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct. If you purchase materials or monitor consumption by weight instead of volume, you do not need to determine material density. Instead, you may use the material weight in place of the combined terms for density and volume in Equations 1A, 1B, 1C, and 2 of this section.

* * * * *

■ 29. Section 63.3960 is amended by revising paragraphs (a)(1) and (4), (b)(1), and (c) introductory text to read as follows:

§ 63.3960 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) * * *

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.3883. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.3961(j), you must conduct according to the schedule in paragraphs (a)(1)(i) and (ii) of this section initial and periodic performance tests of each capture system and add-on control device according to the procedures in §§ 63.3964, 63.3965, and 63.3966 and establish the operating limits required by § 63.3892. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.3961(j), you must initiate the first material balance no later than the applicable compliance date specified in § 63.3883. For magnet wire coating operations, you may, with approval, conduct a performance test of one representative magnet wire coating machine for each group of identical or very similar magnet wire coating machines.

(i) You must conduct the initial performance test and establish the operating limits required by § 63.3892 no later than 180 days after the applicable compliance date specified in § 63.3883.

(ii) You must conduct periodic performance tests and establish the operating limits required by § 63.3892 within 5 years following the previous performance test. You must conduct the first periodic performance test before July 8, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after July 8, 2018. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. For any control device for which you are using the catalytic oxidizer control option at § 63.3967(b) and following the catalyst maintenance procedures in § 63.3967(b)(4), you are not required to conduct periodic testing control device performance testing as specified by this paragraph. For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph.

* * * * *

(4) For the initial compliance demonstration, you do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.3892 until after you have completed the initial performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits established based on the initial performance tests specified in paragraph (a)(1) of this section for your affected source on the date you complete the performance tests. For magnet wire coating operations, you must begin complying with the operating limits for all identical or very similar magnet wire coating machines on the date you complete the performance test of a representative magnet wire coating machine. The requirements in this paragraph (a)(4) do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements in § 63.3961(j).

(b) * * *

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.3883. Except for magnet wire coating operations and solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.3961(j), you must conduct according to the schedule in paragraphs (b)(1)(i) and (ii) of this section initial and periodic performance tests of each capture system and add-on control device according to the procedures in §§ 63.3964, 63.3965, and 63.3966 and establish the operating limits required by § 63.3892. For magnet wire coating operations, you may, with approval, conduct a performance test of a single magnet wire coating machine that represents identical or very similar magnet wire coating machines. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.3961(j), you must initiate the first material balance no later than the compliance date specified in § 63.3883.

(i) You must conduct the initial performance test and establish the operating limits required by § 63.3892 no later than 180 days after the applicable compliance date specified in § 63.3883.

(ii) You must conduct periodic performance tests and establish the operating limits required by § 63.3892 within 5 years following the previous performance test. You must conduct the first periodic performance test before July 8, 2020, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after July 8, 2018. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. For any control device for which you are using the catalytic oxidizer control option at § 63.3967(b) and following the catalyst maintenance procedures in § 63.3967(b)(4), you are not required to conduct periodic testing

control device performance testing as specified by this paragraph. For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph.

* * * * *

(c) You are not required to conduct an initial performance test to determine capture efficiency or destruction efficiency of a capture system or control device if you receive approval to use the results of a performance test that has been previously conducted on that capture system or control device. Any such previous tests must meet the conditions described in paragraphs (c)(1) through (3) of this section. You are still required to conduct a periodic performance test according to the applicable requirements of paragraphs (a)(1)(ii) and (b)(2)(ii) of this section.

* * * * *

■ 30. Section 63.3961 is amended by revising paragraph (j)(3) to read as follows:

§ 63.3961 How do I demonstrate initial compliance?

* * * * *

(j) * * *

(3) Determine the mass fraction of volatile organic matter for each coating, thinner and/or other additive, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using EPA Method 24 of 40 CFR part 60, appendix A–7, ASTM D2369–10 (Reapproved 2015)[e] (incorporated by reference, *see* § 63.14), or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of EPA Method 24 of 40 CFR part 60, appendix A–7, ASTM D2369–10 (Reapproved 2015)[e], or an approved alternative method, the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

* * * * *

■ 31. Section 63.3963 is amended by revising paragraph (f) and adding paragraph (i) to read as follows:

§ 63.3963 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(f) As part of each semiannual compliance report required in § 63.3920, you must identify the coating operation(s) for which you used the emission rate with add-on controls option. If there were no deviations from the emission limits in § 63.3890, the operating limits in § 63.3892, and the work practice standards in § 63.3893, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.3890, and you achieved the operating limits required by § 63.3892 and the work practice standards required by § 63.3893 during each compliance period.

* * * * *

(i) On and after January 5, 2021, deviations that occur due to malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are required to operate in accordance with § 63.3900(b). The Administrator will determine whether the deviations are violations according to the provisions in § 63.3900(b).

* * * * *

■ 32. Section 63.3964 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.3964 What are the general requirements for performance tests?

(a) Before January 5, 2021, you must conduct each performance test required by § 63.3960 according to the requirements in § 63.7(e)(1) and under the conditions in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h). On and after January 5, 2021, you must conduct each performance test required by § 63.3960 according to the requirements in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or periods of nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 33. Section 63.3965 is amended by revising the introductory text to read as follows:

§ 63.3965 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of each performance test required by § 63.3960.

* * * * *

■ 34. Section 63.3966 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 63.3966 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.3960. For each performance test, you must conduct three test runs as specified in § 63.7(e)(3) and each test run must last at least 1 hour. If the source is a magnet wire coating machine, you may use the procedures in section 3.0 of appendix A to this subpart as an alternative.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either EPA Method 25 or 25A of appendix A–7 to 40 CFR part 60.

(1) Use EPA Method 25 of appendix A–7 to 40 CFR part 60 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use EPA Method 25A of appendix A–7 to 40 CFR part 60 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use EPA Method 25A of appendix A–7 to 40 CFR part 60 if the add-on control device is not an oxidizer.

(4) You may use EPA Method 18 of appendix A–6 to 40 CFR part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

* * * * *

■ 35. Section 63.3967 is amended by revising paragraphs (a)(1) and (2), (b)(1) through (3), (d)(1) and (2), and (e)(1) through (4) to read as follows:

§ 63.3967 How do I establish the emission capture system and add-on control device operating limits during the performance test?

* * * * *

(a) * * *

(1) During performance tests, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For each performance test, use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) * * *

(1) During performance tests, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) For each performance test, use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) You must monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. For each performance test, use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

* * * * *

(d) * * *

(1) During performance tests, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) For each performance test, use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) * * *

(1) During performance tests, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) For each performance test, use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During performance tests, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) For each performance test, use the data collected during the performance test to calculate and record the average pressure drop. This is the minimum operating limit for the dilute stream across the concentrator.

* * * * *

■ 36. Section 63.3968 is amended by revising paragraphs (a)(4), (5), and (7), and (c)(3) introductory text to read as follows:

§ 63.3968 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) * * *

(4) Before January 5, 2021, you must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment. On and after January 5, 2021, you must maintain the CPMS at all times in accordance with § 63.3900(b) and keep necessary parts readily available for routine repairs of the monitoring equipment.

(5) Before January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments). On and after January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times in accordance with § 63.3900(b).

* * * * *

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Before January 5, 2021, any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements. On and after January 5, 2021, except for periods of required quality assurance or control activities, any period for which the CPMS fails to operate and record data continuously as required by paragraph (a)(5) of this section, or generates data that cannot be included in calculating averages as specified in (a)(6) of this section constitutes a deviation from the monitoring requirements.

* * * * *

(c) * * *

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (v) of this section for each gas temperature monitoring device. For the purposes of this paragraph (c)(3), a thermocouple is part of the temperature sensor.

* * * * *

■ 37. Section 63.3981 is amended by revising the definitions of "*Deviation*" and "*Non-HAP coating*" to read as follows:

§ 63.3981 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before January 5, 2021, any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to, any emission limit or operating limit or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart; and

(2) On and after January 5, 2021, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

Non-HAP coating means, for the purposes of this subpart, a coating that contains no more than 0.1 percent by mass of any individual organic HAP that is listed in Table 5 to this subpart and no more than 1.0 percent by mass for any other individual HAP.

* * * * *

■ 38. Table 2 to Subpart MMMM of part 63 is revised to read as follows:

TABLE 2 TO SUBPART MMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart MMMM	Explanation
§ 63.1(a)(1)–(14)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart MMMM is also specified in § 63.3881.
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart MMMM.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.3981.
§ 63.1(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)–(6)	Requirements for Existing Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.3883 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources.	Yes	Section 63.3883 specifies the compliance dates.
§ 63.6(e)(1)–(2)	Operation and Maintenance	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3900(b) for general duty requirement.
§ 63.6(e)(3)	SSMP	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(1)	Compliance Except During SSM	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart MMMM does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption.	Yes.	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.3964, 63.3965, and 63.3966.

TABLE 2 TO SUBPART MMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart MMMM	Explanation
§ 63.7(a)(2)	Performance Test Requirements—Dates.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard. Section 63.3960 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)–(4)	Performance Tests Required By the Administrator, Force Majeure.	Yes.	
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.7(e)(1)	Conduct of Performance Tests	Yes before January 5, 2021. No on and after January 5, 2021.	*See* §§ 63.3964.
§ 63.7(e)(2)–(4)	Conduct of Performance Tests	Yes.	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for monitoring are specified in § 63.3968.
§ 63.8(a)(4)	Additional Monitoring Requirements.	No	Subpart MMMM does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes before January 5, 2021. No on and after January 5, 2021.	Section 63.3968 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(2)–(3)	CMS Operation and Maintenance	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.3968.
§ 63.8(c)(4)	CMS	No	§ 63.3968 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart MMMM does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.3968 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods and Reporting.	No	§ 63.3920 requires reporting of CMS out-of-control periods.

TABLE 2 TO SUBPART MMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart MMMM	Explanation
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart MMMM does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method.	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	No	Subpart MMMM does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.3967 and 63.3968 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standard.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart MMMM does not have opacity or visible emissions standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS.	No	Subpart MMMM does not require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.3910 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements.	Yes	Additional requirements are specified in §§ 63.3930 and 63.3931.
§ 63.10(b)(2)(i)–(ii)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns and of Failures to Meet Standards.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3930(j).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes	§ 63.10(b)(2)(iii).
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3930(j) for a record of actions taken to minimize emissions duration a deviation from the standard.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS Malfunctions.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3930(j) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart MMMM does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.3930(j) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(c)(10)–(14)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(15)	Records Regarding the SSMP	Yes before January 5, 2021. No on and after January 5, 2021.	

TABLE 2 TO SUBPART MMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMM OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart MMMM	Explanation
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.3920.
§ 63.10(d)(2)	Report of Performance Test Results.	Yes	Additional requirements are specified in § 63.3920(b) and (d).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart MMMM does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	SSM Reports	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.3920 (a)(7) and (c).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart MMMM does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.3920(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart MMMMM does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares.	No	Subpart MMMM does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	IBR	Yes.	
§ 63.15	Availability of Information/Confidentiality.	Yes.	

■ 39. Table 5 to Subpart MMMM of part 63 is added to read as follows:

TABLE 5 TO SUBPART MMMM OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical Name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1

TABLE 5 TO SUBPART MMMM OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical Name	CAS No.
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

■ 40. Section 63.4168 is amended by adding paragraphs (c)(3)(i) through (vii) to read as follows:

§ 63.4168 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

* * * * *

(c) * * *

(3) * * *

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 4 degrees Fahrenheit or 0.75 percent of the temperature value, whichever is larger.

(iii) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(iv) If a gas temperature chart recorder is used, it must have a measurement sensitivity in the minor division of at least 20 degrees Fahrenheit.

(v) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owner's manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed nearby the process temperature sensor must yield a reading within 30 degrees Fahrenheit of the process temperature sensor's reading.

(vi) Any time the sensor exceeds the manufacturer's specified maximum operating temperature range, either conduct calibration and validation checks or install a new temperature sensor.

(vii) At least monthly, inspect components for integrity and electrical connections for continuity, oxidation, and galvanic corrosion.

* * * * *

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

■ 41. Section 63.4371 is amended by revising the definition for "*No organic HAP*" to read as follows:

§ 63.4371 What definitions apply to this subpart?

* * * * *

No organic HAP means no organic HAP in table 5 to this subpart is present at 0.1 percent by mass or more and no organic HAP not listed in table 5 to this subpart is present at 1.0 percent by mass or more. The organic HAP content of a regulated material is determined according to § 63.4321(e)(1).

* * * * *

Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

■ 42. Section 63.4492 is amended by revising paragraph (b) to read as follows:

§ 63.4492 What operating limits must I meet?

* * * * *

(b) For any controlled coating operation(s) on which you use the emission rate with add-on controls option, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4561(j), you must meet the operating limits specified in table 1 to this subpart. These operating limits apply to the emission capture and control systems on the coating operation(s) for which you use this option, and you must establish the operating limits during the performance tests required in § 63.4560 according to the requirements in § 63.4567. You must meet the operating limits established during the most recent performance tests required in § 63.4560 at all times after you establish them.

* * * * *

■ 43. Section 63.4500 is amended by revising paragraphs (a)(2)(i) and (ii), (b), and (c) to read as follows:

§ 63.4500 What are my general requirements for complying with this subpart?

(a) * * *

(2) * * *

(i) The coating operation(s) must be in compliance with the applicable emission limit in § 63.4490 at all times.

(ii) The coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4492 at all times, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j).

* * * * *

(b) Before January 5, 2021, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On and after January 5, 2021, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) Before January 5, 2021, if your affected source uses an emission capture system and add-on control device, you must develop a written SSMP according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures. On and after January 5, 2021, the SSMP is not required.

■ 44. Section 63.4520 is amended by:

■ a. Revising paragraphs (a)(5) introductory text and (a)(5)(i) and (iv);

■ b. Adding paragraph (a)(5)(v);

■ c. Revising paragraph (a)(6) introductory text and (a)(6)(iii);

■ d. Adding paragraph (a)(6)(iv);

■ e. Revising paragraphs (a)(7) introductory text and (a)(7)(iii), (vi) through (viii), (x), (xiii), and (xiv);

■ f. Adding paragraph (a)(7)(xv);

■ g. Revising paragraph (c) introductory text; and

■ h. Adding paragraphs (d) through (h).

The revisions and additions read as follows:

§ 63.4520 What reports must I submit?

(a) * * *

(5) *Deviations: Compliant material option.* If you used the compliant material option and there was a deviation from the applicable organic HAP content requirements in § 63.4490, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (v) of this section.

(i) Identification of each coating used that deviated from the applicable emission limit, and each thinner and/or other additive, and cleaning material used that contained organic HAP, and the date, time, and duration each was used.

* * * * *

(iv) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, a statement of the cause of each deviation (including unknown cause, if applicable).

(v) On and after January 5, 2021, the number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.4490, a description of the method used to estimate the emissions, and the actions you took to minimize emissions in accordance with § 63.4500(b).

(6) *Deviations: Emission rate without add-on controls option.* If you used the emission rate without add-on controls option and there was a deviation from the applicable emission limit in § 63.4490, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iv) of this section.

* * * * *

(iii) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, a statement of the cause of each deviation (including unknown cause, if applicable).

(iv) On and after January 5, 2021, the number of deviations, date, time, duration, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.4490, a description of the method used to estimate the emissions, and the actions you took to minimize emissions in accordance with § 63.4500(b).

(7) *Deviations: Emission rate with add-on controls option.* If you used the

emission rate with add-on controls option and there was a deviation from the applicable emission limit in § 63.4490 or the applicable operating limit(s) in table 1 to this subpart (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), before January 5, 2021, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xiv) of this section. This includes periods of SSM during which deviations occurred. On and after January 5, 2021, the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xii), (xiv), and (xv) of this section. If you use the emission rate with add-on controls option and there was a deviation from the applicable work practice standards in § 63.4493(b), the semiannual compliance report must contain the information in paragraph (a)(7)(xiii) of this section.

* * * * *

(iii) The date and time that each malfunction of the capture system or add-on control devices started and stopped.

* * * * *

(vi) Before January 5, 2021, the date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks. On and after January 5, 2021, the number of instances that the CPMS was inoperative, and for each instance, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and the actions you took to minimize emissions in accordance with § 63.4500(b).

(vii) Before January 5, 2021, the date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8). On and after January 5, 2021, the number of instances that the CPMS was out of control as specified in § 63.8(c)(7) and, for each instance, the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(viii) Before January 5, 2021, the date and time period of each deviation from an operating limit in table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of SSM or during another period. On and after January 5, 2021, the number of deviations from an operating limit in table 1 to this subpart and, for each deviation, the date, time, and duration of each deviation; the date, time, and duration of any bypass of the add-on control device.

* * * * *

(x) Before January 5, 2021, a breakdown of the total duration of the deviations from the operating limits in table 1 of this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after January 5, 2021, a breakdown of the total duration of the deviations from the operating limits in table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(xiii) Before January 5, 2021, for each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation. On and after January 5, 2021, for deviations from the work practice standards, the number of deviations, and, for each deviation, the information in paragraphs (a)(7)(xiii)(A) and (B) of this section:

(A) A description of the deviation; the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 63.4500(b).

(B) The description required in paragraph (a)(7)(xiii)(A) of this section must include a list of the affected sources or equipment for which a deviation occurred and the cause of the deviation (including unknown cause, if applicable.

(xiv) Before January 5, 2021, a statement of the cause of each deviation. On and after January 5, 2021, for deviations from an emission limit in § 63.4490 or an operating limit in Table 1 to this subpart, a statement of the cause of each deviation (including unknown cause, if applicable) and the actions you took to minimize emissions in accordance with § 63.4500(b).

(xv) On and after January 5, 2021, for each deviation from an emission limit in § 63.4490 or operating limit in table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4490 or operating limit in table 1 to this subpart, and a description of the method used to estimate the emissions.

* * * * *

(c) *SSM reports.* Before January 5, 2021, if you used the emission rate with add-on controls option and you had a SSM during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section. On and after January 5, 2021, the reports specified in paragraphs (c)(1) and (2) of this section are not required.

* * * * *

(d) *Performance test reports.* On and after January 5, 2021, you must submit the results of the performance tests required in § 63.4560 following the procedure specified in paragraphs (d)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (d)(1) of this section is Confidential Business Information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or

alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (d)(1) of this section.

(e) *Initial notification reports.* On and after January 5, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in § 63.9(h) and § 63.4510(c) to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(f) *Semiannual compliance reports.* On and after January 5, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in paragraph (a) of this section to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*)). The owner or operator must use the appropriate electronic template on the CEDRI website for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Reporting during EPA system outages.* If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of the EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(h) *Reporting during force majeure events.* If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 45. Section 63.4530 is amended by revising paragraphs (h), (i) introductory text, and (i)(1) and (2) to read as follows:

§ 63.4530 What records must I keep?

* * * * *

(h) Before January 5, 2021, you must keep records of the date, time, and duration of each deviation. On and after January 5, 2021, for each deviation from an emission limitation reported under § 63.4520(a)(5) through (7), a record of the information specified in paragraphs (h)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, as reported under § 63.4520(a)(5) through (7).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.4520(a)(5) through (7).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.4490 or any applicable operating limit in Table 1 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.4520(a)(5) through (7).

(4) A record of actions taken to minimize emissions in accordance with § 63.4500(b) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(i) If you use the emission rate with add-on controls option, you must also keep the records specified in paragraphs (i)(1) through (8) of this section.

(1) Before January 5, 2021, for each deviation, a record of whether the deviation occurred during a period of SSM. On and after January 5, 2021, a record of whether the deviation occurred during a period of SSM is not required.

(2) Before January 5, 2021, the records in § 63.6(e)(3)(iii) through (v) related to SSM. On and after January 5, 2021, the records in § 63.6(e)(3)(iii) through (v) related to SSM are not required.

* * * * *

■ 46. Section 63.4531 is amended by revising paragraph (a) to read as follows:

§ 63.4531 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database. On and after January 5, 2021, any records required to be maintained by this subpart that are in reports that were submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 47. Section 63.4541 is amended by revising paragraphs (a)(1)(i) and (a)(2) and (4) to read as follows:

§ 63.4541 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(1) * * *

(i) Count each organic HAP in Table 5 to this subpart that is measured to be present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in Table 5 to this subpart) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (*e.g.,* 0.3791).

* * * * *

(2) *EPA Method 24 (appendix A–7 to 40 CFR part 60).* For coatings, you may use EPA Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. As an alternative to using EPA Method 24, you may use ASTM D2369–10 (Reapproved 2015)[e] (incorporated by reference, *see* § 63.14). For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, you may use the alternative method contained in appendix A to this subpart, rather than EPA Method 24. You may use the volatile fraction that is emitted, as measured by the alternative method in appendix A to this subpart, as a substitute for the mass fraction of organic HAP.

* * * * *

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP in Table 5 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in Table 5 to this subpart) is 0.5 percent of the material by mass, you do not have to count it. For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, you may rely on manufacturer's data that expressly states the organic HAP or volatile matter mass fraction emitted. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

* * * * *

■ 48. Section 63.4551 is amended by revising paragraph (c) to read as follows:

§ 63.4551 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(c) *Determine the density of each material.* Determine the density of each liquid coating, thinner and/or other additive, and cleaning material used during each month from test results using ASTM D1475–13 or ASTM D2111–10 (Reapproved 2015) (both incorporated by reference, *see* § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM D1475–13 or ASTM D2111–10 (Reapproved 2015) and other such information sources, the test results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct. If you purchase materials or monitor consumption by weight instead of volume, you do not need to determine material density. Instead, you may use the material weight in place of the combined terms for density and volume in Equations 1A, 1B, 1C, and 2 of this section.

* * * * *

■ 49. Section 63.4560 is amended by revising the section heading and paragraphs (a)(1) and (4), (b)(1), and (c) introductory text to read as follows:

§ 63.4560 By what date must I conduct performance tests and initial compliance demonstrations?

(a) * * *

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4483. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j), you must conduct according to the schedule in paragraphs (a)(1)(i) and (ii) of this section initial and periodic performance tests of each capture system and add-on control device according to the procedures in §§ 63.4564, 63.4565, and 63.4566 and establish the operating limits required by § 63.4492. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4561(j), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4483.

(i) You must conduct the initial performance test and establish the operating limits required by § 63.4492 no later than 180 days after the applicable compliance date specified in § 63.4483.

(ii) You must conduct periodic performance tests and establish the operating limits required by § 63.4492 within 5 years following the previous performance test. You must conduct the first periodic performance test before July 8, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after July 8, 2018. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. For any control device for which you are using the catalytic oxidizer control option at § 63.4567(b) and following the catalyst maintenance procedures in § 63.4567(b)(4), you are not required to conduct periodic control device performance testing as specified by this paragraph. For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph.

* * * * *

(4) For the initial compliance demonstration, you do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4492 until after you have completed the initial performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits established based on the initial performance tests specified in paragraph (a)(1) of this section for your affected source on the date you complete the performance tests. The requirements in this paragraph (a)(4) do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements in § 63.4561(j).

(b) * * *

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4483. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j), you must conduct according to the schedule in paragraphs (b)(1)(i) and (ii) of this section initial and periodic performance tests of each capture system and add-on control device according to the procedures in §§ 63.4564, 63.4565, and 63.4566 and establish the operating limits required by § 63.4492. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4561(j), you must initiate the first material balance no later than the compliance date specified in § 63.4483.

(i) You must conduct the initial performance test and establish the operating limits required by § 63.4492 no later than 180 days after the applicable compliance date specified in § 63.4483.

(ii) You must conduct periodic performance tests and establish the operating limits required by § 63.4492 within 5 years following the previous performance test. You must conduct the first periodic performance test before July 8, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after July 8, 2018. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test. For any control device for which you are using the catalytic oxidizer control option at § 63.4567(b) and following the catalyst maintenance procedures in § 63.4567(b)(4), you are not required to conduct periodic control device performance testing as specified by this paragraph. For any control device for which instruments are used to continuously measure organic compound emissions, you are not required to conduct periodic control device performance testing as specified by this paragraph.

* * * * *

(c) You are not required to conduct an initial performance test to determine capture efficiency or destruction efficiency of a capture system or control device if you receive approval to use the results of a performance test that has been previously conducted on that capture system or control device. Any such previous tests must meet the conditions described in paragraphs (c)(1) through (3) of this section. You are still required to conduct a periodic performance test according to the applicable requirements of paragraphs (a)(1)(ii) and (b)(2)(ii) of this section.

* * * * *

■ 50. Section 63.4561 is amended by revising paragraphs (j)(3) and (n) to read as follows:

§ 63.4561 How do I demonstrate initial compliance?

* * * * *

(j) * * *

(3) Determine the mass fraction of volatile organic matter for each coating, thinner and/or other additive, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using EPA Method 24 of 40 CFR part 60, appendix A–7, ASTM D2369–10 (Reapproved 2015)[e] (incorporated by reference, *see* § 63.14), or an EPA approved alternative method. Alternatively, you may determine the volatile organic matter mass fraction using information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of EPA Method 24 of 40 CFR part 60, appendix A–7, ASTM D2369–10 (Reapproved 2015)[e], or an approved alternative method, the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

* * * * *

(n) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period, calculated using Equation 5 of this section, must be less than or equal to the applicable emission limit for each subcategory in § 63.4490 or the predominant activity or facility-specific emission limit allowed in § 63.4490(c). You must keep all records as required by §§ 63.4530 and 63.4531. As part of the notification of compliance status required by § 63.4510, you must identify the coating operation(s) for which you used the emission rate with add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4490, and for control devices other than solvent recovery system using a liquid-liquid material balance, you achieved the operating limits required by § 63.4492 and the work practice standards required by § 63.4493.

■ 51. Section 63.4563 is amended by revising paragraph (f) and adding paragraph (g) to read as follows:

§ 63.4563 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(f) As part of each semiannual compliance report required in § 63.4520, you must identify the coating operation(s) for which you used the emission rate with add-on controls option. If there were no deviations from the emission limits in § 63.4490, the operating limits in § 63.4492, and the work practice standards in § 63.4493, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4490, and you achieved the operating limits required by § 63.4492 and the work practice standards required by § 63.4493 during each compliance period.

(g) On and after January 5, 2021, deviations that occur due to malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are required to operate in accordance with § 63.4500(b). The Administrator will determine whether the deviations are violations according to the provisions in § 63.4500(b).

* * * * *

■ 52. Section 63.4564 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.4564 What are the general requirements for performance tests?

(a) Before January 5, 2021, you must conduct each performance test required by § 63.4560 according to the requirements in § 63.7(e)(1) and under the conditions in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h). On and after January 5, 2021, you must conduct each performance test required by § 63.4560 according to the requirements in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) Representative coating operation operating conditions. You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 53. Section 63.4565 is amended by revising the introductory text to read as follows:

§ 63.4565 How do I determine the emission capture system efficiency?

You must use the procedures and test methods in this section to determine capture efficiency as part of each performance test required by § 63.4560.

* * * * *

■ 54. Section 63.4566 is amended by revising the introductory text and paragraphs (a)(1) through (4) and (b) to read as follows:

§ 63.4566 How do I determine the add-on control device emission destruction or removal efficiency?

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.4560. For each performance test, you must conduct three test runs as specified in § 63.7(e)(3) and each test run must last at least 1 hour.

(a) * * *

(1) Use EPA Method 1 or 1A of appendix A–1 to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use EPA Method 2, 2A, 2C, 2D, or 2F of appendix A–1 to 40 CFR part 60, or 2G of appendix A–2 to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use EPA Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight.

(4) Use EPA Method 4 of appendix A–3 to 40 CFR part 60, to determine stack gas moisture.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either EPA Method 25 or 25A of appendix A–7 to 40 CFR part 60.

(1) Use EPA Method 25 of appendix A–7 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use EPA Method 25A of appendix A–7 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use EPA Method 25A of appendix A–7 if the add-on control device is not an oxidizer.

(4) You may use EPA Method 18 in appendix A–6 of part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

* * * * *

■ 55. Section 63.4567 is amended by revising the introductory text and paragraphs (a)(1) and (2), (b)(1) through (3), (c)(1), (d)(1) and (2), and (e)(1) through (4) to read as follows:

§ 63.4567 How do I establish the emission capture system and add-on control device operating limits during the performance test?

During performance tests required by § 63.4560 and described in §§ 63.4564, 63.4565, and 63.4566, you must establish the operating limits required by § 63.4492 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4492.

(a) * * *

(1) During performance tests, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For each performance test, use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) * * *

(1) During performance tests, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15 minutes during each of the three test runs.

(2) For each performance test, use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) You must monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and

maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During performance tests, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. For each performance test, use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

* * * * *

(c) * * *

(1) During performance tests, you must monitor and record the total regeneration desorbing gas (*e.g.,* steam or nitrogen) mass flow for each regeneration cycle, and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

* * * * *

(d) * * *

(1) During performance tests, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs of the performance test.

(2) For each performance test, use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) * * *

(1) During performance tests, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) For each performance test, use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During each performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) For each performance test, use the data collected during the performance test to calculate and record the average pressure drop. This is the minimum operating limit for the dilute stream across the concentrator.

* * * * *

■ 56. Section 63.4568 is amended by revising paragraphs (a)(4), (5), and (7) and (c)(3) introductory text to read as follows:

§ 63.4568 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) * * *

(4) Before January 5, 2021, you must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment. On and after January 5, 2021, you must maintain the CPMS at all times in accordance with § 63.4500(b) and keep necessary parts readily available for routine repairs of the monitoring equipment.

(5) Before January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments). On and after January 5, 2021, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times in accordance with § 63.4500(b).

* * * * *

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Before January 5, 2021, any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements. On and after January 5, 2021, except for periods of required quality assurance or control activities, any period for which the CPMS fails to operate and record data continuously as required by paragraph (a)(5) of this section, or generates data that cannot be included in calculating averages as specified in (a)(6) of this section constitutes a deviation from the monitoring requirements.

* * * * *

(c) * * *

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (v) of this section for each gas temperature monitoring device. For the purposes of this paragraph (c)(3), a thermocouple is part of the temperature sensor.

* * * * *

■ 57. Section 63.4581 is amended by revising the definitions of "*Deviation*" and "*Non-HAP coating*" to read as follows:

§ 63.4581 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before January 5, 2021, any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to, any emission limit or operating limit or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart; and

(2) On and after January 5, 2021, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

Non-HAP coating means, for the purposes of this subpart, a coating that contains no more than 0.1 percent by mass of any individual organic HAP that is listed in table 5 to this subpart and no more than 1.0 percent by mass for any other individual HAP.

* * * * *

■ 58. Table 2 to Subpart PPPP of part 63 is revised to read as follows:

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart PPPP is also specified in § 63.4481.
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart PPPP.
§ 63.1(c)(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4581.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(2)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Fragmentation	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1), (3), (4), (6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)(1)(i)–(ii)(F), (d)(1)(ii)(H), (d)(1)(ii)(J), (d)(1)(iii), (d)(2)–(4).	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(5), (b)(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4483 specifies the compliance dates.
§ 63.6(c)(1), (2), (5)	Compliance Dates for Existing Sources.	Yes	Section 63.4483 specifies the compliance dates.
§ 63.6(e)(1)(i)–(ii)	Operation and Maintenance	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4500(b) for general duty requirement.
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)(i), (e)(3)(iii)–(ix)	SSMP	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(1)	Compliance Except During SSM	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes.	
§ 63.6(g)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart PPPP does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(14), (16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption.	Yes.	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4564, 63.4565, and 63.4566.
§ 63.7(a)(2), except (a)(2)(i)–(viii)	Performance Test Requirements—Dates.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.4560 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)–(4)	Performance Tests Required By the Administrator, Force Majeure.	Yes.	

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.7(e)(1)	Conduct of Performance Tests	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4500 and § 63.4564(a).
§ 63.7(e)(2)–(4)	Conduct of Performance Tests	Yes.	
§ 63.7(f)	Performance Test Requirements—Use Alternative Test Method.	Yes	Applies to all test methods except those of used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.4568.
§ 63.8(a)(4)	Additional Monitoring Requirements.	No	Subpart PPPP does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes before January 5, 2021. No on and after January 5, 2021.	Section 63.4568 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(2)–(3)	CMS Operation and Maintenance	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.4568.
§ 63.8(c)(4)	CMS	No	Section 63.4568 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart PPPP does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4568 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods and Reporting.	No	Section 63.4520 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method.	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.8(g)	Data Reduction	No	Sections 63.4567 and 63.4568 specify monitoring data reduction.

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart PPPP does not have opacity or visible emission standards.
§ 63.9(g)	Additional Notifications When Using CMS.	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.9(h)(1)–(3), (5)–(6)	Notification of Compliance Status	Yes	Section 63.4510 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements.	Yes	Additional requirements are specified in §§ 63.4530 and 63.4531.
§ 63.10(b)(2)(i)–(ii)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns and of Failures to Meet Standards.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4530(h).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes.	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4530(h)(4) for a record of actions taken to minimize emissions during a deviation from the standard.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS Malfunctions.	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4530(h) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(vii)–(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1), (5)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.4530(h) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(c)(10)–(14)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(15)	Records Regarding the SSMP	Yes before January 5, 2021. No on and after January 5, 2021.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4520.
§ 63.10(d)(2)	Report of Performance Test Results.	Yes	Additional requirements are specified in § 63.4520(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart PPPP does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63—Continued

You must comply with the applicable General Provisions requirements according to the following table:

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.10(d)(5)	SSM Reports	Yes before January 5, 2021. No on and after January 5, 2021.	*See* § 63.4520(a)(7).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4520(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart PPPP does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares.	No	Subpart PPPP does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	IBR	Yes.	
§ 63.15	Availability of Information/Confidentiality.	Yes.	

■ 59. Table 5 to Subpart PPPP of part 63 is added to read as follows:

TABLE 5 TO SUBPART PPPP OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3

TABLE 5 TO SUBPART PPPP OF PART 63—LIST OF HAP THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

■ 60. Appendix A to Subpart PPPP of Part 63 is amended by revising section 1.2 to read as follows:

Appendix A to Subpart PPPP of Part 63—Determination of Weight Volatile Matter Content and Weight Solids Content of Reactive Adhesives

* * * * *

1.2 Principle: One-part and multiple-part reactive adhesives undergo a reactive conversion from liquid to solid during the application and assembly process. Reactive adhesives are applied to a single surface, but then are usually quickly covered with another mating surface to achieve a bonded assembly. The monomers employed in such systems typically react and are converted to non-volatile solids. If left uncovered, as in a EPA Method 24 (or ASTM D2369–10 (Reapproved 2015)[e]) test, the reaction is inhibited by the presence of oxygen and volatile loss of the reactive components competes more heavily with the cure reaction. If this were to happen under normal use conditions, the adhesives would not provide adequate performance. This method minimizes this undesirable deterioration of the adhesive performance.

* * * * *

Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

■ 61. Section 63.4965 is amended by adding paragraphs (b)(1) through (3) to read as follows:

§ 63.4965 How do I determine the add-on control device emission destruction or removal efficiency?

* * * * *

(b) * * *

(1) Use EPA Method 25 to appendix A–7 to part 60 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use EPA Method 25A to appendix A–7 to part 60 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use EPA Method 25A to appendix A–7 to part 60 if the add-on control device is not an oxidizer.

* * * * *

[FR Doc. 2020–05908 Filed 7–7–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0664; FRL–10010–15–OAR]

RIN 2060–AT05

National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Taconite Iron Ore Processing source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing the exemptions previously allowed for periods of startup, shutdown, and malfunction (SSM) and clarifying that the emissions standards apply at all times. These final amendments include no revisions to the numerical emission limits of the rule based on the RTR. The amendments add electronic reporting of performance test results and compliance reports and make minor technical corrections and amendments to monitoring and testing requirements that will reduce the compliance burden on industry while continuing to be protective of the environment. While the amendments do not result in quantifiable reductions in emissions of hazardous air pollutants (HAP), this action results in improved monitoring, compliance, and implementation of the rule.

DATES: This final rule is effective on July 28, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 28, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0664. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form or on a third party's website. Publicly available docket materials are available electronically through *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. David Putney, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2016; fax number: (919) 541–4991; and email address: *putney.david@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Chris Sarsony, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4843; fax number: (919) 541–0840; and email address: *sarsony.chris@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ASME American Society of Mechanical Engineers
BLDS bag leak detection system
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
COMS continuous opacity monitoring systems
CPMS continuous parameter monitoring system
CRA Congressional Review Act
EMP elongated mineral particulate
EPA Environmental Protection Agency
ESP electrostatic precipitator
HAP hazardous air pollutants(s)
HCl hydrogen chloride
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IBR incorporation by reference
ICR Information Collection Request
MACT maximum achievable control technology
MIR maximum individual risk
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PM particulate matter
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court the United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
TRIM.FaTE Total Risk Integrated Methodology. Fate, Transport, and Ecological Exposure model
TWHS Taconite Workers Health Study
UMRA Unfunded Mandates Reform Act

Background information. On September 25, 2019, the EPA proposed the results of the RTR, proposed a decision regarding the non-asbestiform amphibole elongated mineral particulates (EMP), and proposed various revisions to address periods of SSM and to improve certain monitoring and testing requirements in the Taconite Iron Ore Processing NESHAP. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which can be found in Docket ID No. EPA–HQ–OAR–2017–0664. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the Taconite Iron Ore Processing source category and how does the

NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the Taconite Iron Ore Processing source category in our September 25, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the Taconite Iron Ore Processing source category?
B. What are the final rule amendments based on the technology review for the Taconite Iron Ore Processing source category?
C. What are the final rule amendments addressing emissions during periods of SSM?
D. What other changes have been made to the NESHAP?
E. What are the effective and compliance dates of the revisions to the NESHAP?
IV. What is the rationale for our final decisions and amendments for the Taconite Iron Ore Processing source category?
A. Residual Risk Review for the Taconite Iron Ore Processing Source Category
B. Technology Review for the Taconite Iron Ore Processing Source Category
C. SSM for the Taconite Iron Ore Processing Source Category
D. Other Amendments to the Taconite Iron Ore Processing NESHAP
E. Compliance Dates of the Revisions to the NESHAP
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS[1] code
Taconite Iron Ore Processing	40 CFR part 63, subpart RRRRR	21221

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/taconite-iron-ore-processing-national-emission-standards-hazardous.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 28, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those

sources. "Major sources" are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year or more, or 25 tons per year or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see the proposed rule at 84 FR 50660, September 25, 2019.

B. What is the Taconite Iron Ore Processing source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Taconite Iron Ore Processing NESHAP on October 30, 2003 (68 FR 61868). The standards are codified at 40 CFR part 63, subpart RRRRR. The taconite iron ore processing industry consists of facilities that separate and concentrate iron ore from taconite, a low-grade iron ore containing about 20- to 25-percent iron, and produce taconite pellets, which are about 60- to 65-percent iron. The source category covered by these MACT standards currently includes eight U.S. facilities; six facilities are in Minnesota and two are in Michigan.

Taconite iron ore processing includes crushing and handling of the crude ore, concentrating, agglomerating, indurating, and finished pellet handling. The regulated sources are each new or existing ore crushing and handling operation, ore dryer, pellet indurating furnace, and finished pellet handling operation at a taconite iron ore processing plant that is (or is part of) a major source of HAP emissions. The NESHAP also regulates fugitive emissions from stockpiles (including uncrushed and crushed ore and finished pellets), material transfer points, plant roadways, tailings basins, pellet loading areas, and yard areas. The indurating furnaces are the most significant sources of HAP emissions and account for about 99 percent of the total HAP emissions from the Taconite Iron Ore Processing source category. The rule requires compliance with emission limits, operating limits for control devices, and work practice standards. The emission limits are in the form of particulate matter (PM) limits, which are a surrogate for certain metal HAP emissions as well as for hydrogen chloride (HCl) and hydrogen fluoride (HF). The PM emission limitations apply to each new and existing ore crushing and handling operation, ore dryer, indurating furnace, and finished pellet handling operation. More information on the industry and the key requirements of the NESHAP can be found in the September 25, 2019, proposed rule at 84 FR 50660.

C. What changes did we propose for the Taconite Iron Ore Processing source category in our September 25, 2019, proposal?

On September 25, 2019, the EPA published a proposed rule in the **Federal Register** for the Taconite Iron Ore Processing NESHAP, 40 CFR part 63, subpart RRRRR, that took into consideration the RTR analyses. In the proposed rule, the EPA found that risks due to emissions of air toxics from this source category are acceptable and that the existing emission standards provide an ample margin of safety to protect public health and prevent, taking into consideration relevant factors, an adverse environmental effect. Pursuant to the technology review, the EPA did not identify any developments in practices, processes, or control technologies for affected sources subject to the Taconite Iron Ore Processing NESHAP. The EPA proposed no revisions to the numerical emission limits based on these analyses. Separate from the RTR, the EPA did propose the following amendments:

- Removal of exemptions during periods of SSM and clarifying that the emissions standards apply at all times;
- Addition of electronic reporting of performance test results and compliance reports;
- Reduction in the minimum required compliance testing duration of individual runs from 2 hours to 1 hour;
- Removal of pressure drop as a monitoring option for dynamic wet scrubbers;
- Removal of the requirements for conducting quarterly internal baghouse inspections for baghouses equipped with a bag leak detection system (BLDS);
- Changes to clarify testing, monitoring, recordkeeping, and

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) ("If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.").

reporting requirements and to correct typographical errors; and

- Determination that a compound known as non-asbestiform amphibole EMP is not a HAP and, thus, is not subject to regulation under CAA section 112(d).

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Taconite Iron Ore Processing source category. This actions also finalizes several changes to the NESHAP, including the following: (1) Removal of exemptions for periods of SSM and clarifying that the emissions standards apply at all times; (2) addition of requirements for electronic reporting of performance test results and compliance reports; (3) reduction in the minimum required compliance testing duration of individual runs from 2 hours to 1 hour; (4) removal of the option to monitor pressure drop for dynamic wet scrubbers; (5) removal of the requirements to conduct quarterly internal baghouse inspections for baghouses equipped with a bag leak detection system; and (6) clarification of various requirements for testing, monitoring, recordkeeping, and reporting and correction of typographical errors. This preamble also addresses comments received during the public comment period concerning the EPA's decision not to set standards for mercury emissions as part of this action and the EPA's determination that the non-asbestiform amphibole EMP that are emitted from one facility in this source category are not a HAP and are, therefore, not subject to regulation under CAA section 112(d), as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Taconite Iron Ore Processing source category?

The EPA proposed no changes to 40 CFR part 63, subpart RRRRR, based on the risk review conducted pursuant to CAA section 112(f). Specifically, we determined that risks from the Taconite Iron Ore Processing source category are acceptable, that the standards provide an ample margin of safety to protect public health, and that it is not necessary to set a more stringent standard to prevent, taking into consideration relevant factors, an adverse environmental effect. The EPA received no new data or other information during the public comment period that changed this determination. Therefore, we are finalizing our determination that the existing standards protect public health with an ample margin of safety and that the standards protect against an adverse environmental effect and, thus, we are not requiring additional controls under CAA section 112(f)(2).

B. What are the final rule amendments based on the technology review for the Taconite Iron Ore Processing source category?

The EPA proposed no changes to 40 CFR part 63, subpart RRRRR, based on the technology review conducted pursuant to CAA section 112(d)(6). Specifically, we determined that there are no developments in practices, processes, and control technologies for this source category. The EPA received no new data or other information during the public comment period that affected the technology review determination. Therefore, as proposed, we are not revising the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the Taconite Iron Ore Processing NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemptions contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemptions violate the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.C of the proposal preamble (84 FR 50674, September 25, 2019), the Taconite Iron Ore Processing NESHAP requires that the standards apply at all times (see 40 CFR 63.9610). We are finalizing amendments eliminating the SSM exemption in 40 CFR 63.9610 that apply after January 25, 2021. We are also finalizing several revisions to Table 2 (the General Provisions applicability table) related to SSM plans, monitoring, and recordkeeping as explained in the proposed rule.

We are finalizing the SSM provisions as proposed without setting separate standards for startup and shutdown as discussed in the proposal at IV.C. Further, we are not finalizing separate standards for malfunctions. As discussed in the September 25, 2019, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For this industry sector, it is unlikely that a production equipment malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.C of the proposal preamble for further discussion of the EPA's rationale for the decision not to set separate standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

Finally, we are finalizing our proposal to revise the Deviation Notification Report and related records accordingly. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.9610(a) that the standards apply at all times. Refer to section IV.C.1 of the proposal preamble for a detailed discussion of these amendments.

1. General Duty

We are promulgating revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR, by adding an entry for 40 CFR 63.6(e)(1)(i), which describes the general duty to minimize emissions, and including a "No" in column 3 indicating that it does not apply to subpart RRRRR. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are instead adding general duty regulatory text at 40 CFR 63.9600 that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is promulgating for 40 CFR 63.9600 does not include that language from 40 CFR 63.6(e)(1) after July 28, 2020.

2. SSM Plan

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR, by adding an entry for 40 CFR 63.6(e)(3) and including "No" in column 3. Generally, the paragraphs under 40 CFR 63.6(e)(3) require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As the EPA is removing the SSM exemptions, the affected units will be subject to an emission standard during such events, making an SSM plan unnecessary.

We are also finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR, by adding an entry for 40 CFR 63.6(e)(1)(ii) and including "No" in column 3. The paragraph under 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.9600.

3. Compliance With Standards

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.6(f)(1) and including "No" in column 3. The paragraph under 40 CFR 63.6(f)(1), which exempted sources from non-opacity standards during periods of SSM, was vacated by the Court in *Sierra Club* v. *EPA* as discussed above.

We also are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.6(h)(1) and including "No" in column 3. The paragraph under 40 CFR 63.6(h)(1), which exempted sources from opacity standards during periods of SSM, was also vacated by the Court in *Sierra Club* v. *EPA*. Consistent with the Court mandate, the EPA is finalizing revisions to standards in this rule to ensure that a CAA section 112 standard applies at all times.

4. Performance Testing

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.7(e)(1) and including "No" in column 3. The paragraph under 40 CFR 63.7(e)(1) describes performance testing requirements. The EPA is instead adding a performance testing requirement at 40 CFR 63.9621. The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered "representative" for purposes of performance testing. The revised performance testing provisions require testing under representative operating conditions and exclude periods of startup and shutdown.

As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is promulgating language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in this record an explanation to support that such conditions represent normal operation. The paragraph under 40 CFR 63.7(e) requires that the owner or operator make available to the Administrator on request such records "as may be necessary to determine the condition of the performance test" but does not specifically require the information to be recorded. The regulatory text the EPA is adding to this provision builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding entries for 40 CFR 63.8(c)(1)(i) and (iii) and including "No" in column 3. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.8(d)(3) and including "No" in column 3. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is adding to the rule at 40 CFR 63.9632(b)(5) text that replaces 40 CFR 63.8(d)(3) and removes the reference to the SSM plan.

6. Recordkeeping

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.10(b)(2)(i) and including "No" in column 3. Paragraph 40 CFR 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is requiring that recordkeeping and reporting applicable to normal operations would apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods. Provisions are added to 40 CFR 63.9642 that specify records that must be kept when there is a failure to meet an applicable standard.

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.10(b)(2)(ii) and including "No" in column 3. Paragraph 40 CFR 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is adding such requirements to 40 CFR 63.9642. The regulatory text we are adding differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is finalizing this requirement to apply to any failure to meet an applicable standard and is requiring the source to record the date, time, and duration of the failure. The EPA is also adding to 40 CFR 63.9642 the requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart

RRRRR by adding an entry for 40 CFR 63.10(b)(2)(iv) and including "No" in column 3. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans would no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv) to record actions to minimize emissions and record corrective actions during SSM is now applicable at all times by 40 CFR 63.9642.

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.10(b)(2)(v) and including "No" in column 3. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans would no longer be required.

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.10(c)(15) and including "No" in column 3. Because the SSM plan requirement is being eliminated, 40 CFR 63.10(c)(15) no longer applies. When applicable, the provision allowed an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is eliminating this requirement because SSM plans are no longer required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

7. Reporting

We are finalizing revisions to the General Provisions applicability table (Table 2) of 40 CFR part 63, subpart RRRRR by adding an entry for 40 CFR 63.10(d)(5) and including "No" in column 3. Paragraph 40 CFR 63.10(d)(5) describes the reporting requirements for SSM. We are no longer requiring owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans are no longer required. To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.9641. The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are adding language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual reporting period compliance report already required under this rule. We are requiring the report to contain the date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions. The EPA is promulgating this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We are no longer requiring owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans are no longer required. These final amendments, therefore, eliminate from this section the cross-reference to 40 CFR 63.10(d)(5) that contains the description of the previously required SSM report format and submittal schedule. These specifications are no longer necessary because the SSM events would be reported in otherwise required periodic reports with similar format and submittal requirements.

D. What other changes have been made to the NESHAP?

Other amendments to the NESHAP that do not fall into the categories in the previous sections include:

- Requiring that owners or operators of taconite iron ore processing plants submit electronic copies of required performance test reports and compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI);
- Reducing the minimum time for test runs for performance tests conducted on ore crushing and handling, finished pellet handling, ore drying, and indurating furnace affected sources from 2 hours for each test run to 1 hour for each test run;
- Removing pressure drop as a monitoring option for dynamic wet scrubbers and requiring that the owner or operator establish and monitor the scrubber water flow rate and fan amperage; and
- Removing the requirements for conducting quarterly internal baghouse inspections for baghouses equipped with a bag leak detection system that is installed, operated, and maintained in compliance with the requirements in the Taconite Iron Ore Processing NESHAP.

We are also finalizing various other changes to clarify testing, monitoring, recordkeeping, and reporting requirements and to correct typographical errors, including:

- Revisions to 40 CFR 63.9600(b)(2) to clarify when a BLDS alarm becomes an operating system deviation;
- Revisions to 40 CFR 63.9620(f) and 63.9634(b)(3) to resolve conflicting provisions;
- Revisions to 40 CFR 63.9621(b) that clarify the test methods and procedures that must be used to determine compliance with the applicable emission limits for PM;
- Revisions to 40 CFR 63.9622(d)(2), which establishes the operating limits for wet electrostatic precipitators;
- Revisions to the introductory paragraph of 40 CFR 63.9625 to clarify the requirements for demonstrating initial compliance for air pollution control devices subject to operating limits;
- Revisions to 40 CFR 63.9632(b) to clarify the requirements for continuous parameter monitoring systems (CPMS);
- Revisions to 40 CFR 63.9632(f) to clarify the requirements for continuous opacity monitoring systems (COMS);
- Revisions to 40 CFR 63.9633(a) and (b) to clarify the monitoring and data collection requirements;
- Revisions to 40 CFR 63.9634(d) to clarify the requirements for baghouses for determining continuous compliance with emission limits;
- Revisions to 40 CFR 63.9634(h)(1) and 40 CFR 63.9634(j)(1) and (2) for clarification;
- Revisions to 40 CFR 63.9641(b)(7) and (8) to clarify the reporting requirements for deviations from emission limitations;
- Revisions to the recordkeeping requirements in 40 CFR 63.9642(a) and (b) to clarify what information must be recorded when an applicable standard is not met as well as what information is required in a performance evaluation plan; and
- Removal of the definitions of *conveyor belt transfer point* and *wet grinding and milling* because the terms are not used in the rule, and the addition of a definition of *wet scrubber.*

E. What are the effective and compliance dates of the revisions to the NESHAP?

The revisions to the NESHAP being promulgated in this action are effective on July 28, 2020. The compliance date

for the revised requirements for affected sources that commenced construction or reconstruction on or before September 25, 2019, is January 25, 2021, with an exception for the revised provisions that apply to dynamic wet scrubbers, which have a compliance date of January 28, 2022. The compliance date for the revised requirements for affected sources that commence construction or reconstruction after September 25, 2019, is the effective date of the standard, July 28, 2020, or upon startup, whichever is later.

IV. What is the rationale for our final decisions and amendments for the Taconite Iron Ore Processing source category?

For each issue, this section provides a description of what we proposed and what we are finalizing, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which is available in the docket.

A. Residual Risk Review for the Taconite Iron Ore Processing Source Category

1. What did we propose pursuant to CAA section 112(f) for the Taconite Iron Ore Processing source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects, in the September 25, 2019, proposed rule (84 FR 50660). The results of the risk assessment for the proposal are presented briefly in Table 2 of this preamble. More detail is in the residual risk document, *Residual Risk Assessment for the Taconite Iron Ore Processing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* (also referred to as the Taconite Risk Report in this preamble), which is available in the docket for this rulemaking (Docket Item No. EPA–HQ–OAR–2017–0664–0130).

TABLE 2—TACONITE IRON ORE PROCESSING SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS AT PROPOSAL

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	2	6	38,000	43,000	0.001	0.001	0.2	0.2	HQREL = <1
Whole Facility	2	.....	40,000	.....	0.001	.....	0.2	.....	.....

[1] The target organ-specific hazard index (TOSHI) is the sum of the chronic noncancer hazard quotients (HQs) for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values.

The results of the proposal inhalation risk modeling, as shown in Table 2 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) was estimated to be 2-in-1 million (driven by arsenic and nickel from fugitive dust and indurating sources), the estimated maximum chronic noncancer TOSHI value based on actual emissions was 0.2 (driven by manganese compounds from fugitive dust and ore crushing sources), and the maximum screening acute noncancer HQ value (off-facility site) was less than 1 (driven by arsenic from fugitive dust and ore crushing sources). The total estimated annual cancer incidence (national) from these facilities based on actual emission levels was 0.001 excess cancer cases per year or 1 case in every 1,000 years.

The results of the proposal inhalation risk modeling using allowable emissions data (lifetime), as shown in Table 2, indicate that the estimated maximum individual cancer risk was 6-in-1 million (driven by arsenic and nickel from fugitive dust and indurating sources) and the maximum chronic noncancer TOSHI value was 0.2 (driven by manganese compounds from fugitive dust and ore crushing sources). At proposal, the total annual cancer incidence (national) from these facilities based on allowable emissions was estimated to be 0.001 excess cancer cases per year, or one case in every 1,000 years.

At proposal, the maximum facility-wide cancer maximum individual risk (MIR) was estimated to be 2-in-1 million, driven by arsenic and nickel from fugitive dust and indurating emissions. The maximum facility-wide TOSHI for the source category was estimated to be 0.2, mainly driven by emissions of manganese from fugitive dust and ore crushing emissions. The total estimated cancer incidence from the whole facility was determined to be 0.001 excess cancer cases per year, or one excess case in every 1,000 years.

At proposal, potential multipathway health risks were also considered. Based upon the maximum Tier 2 screening values for mercury (fisher scenario) and arsenic (fisher and gardener scenario) occurring from the same location, we proceeded to a site-specific assessment using Total Risk Integrated Methodology. Fate, Transport, and Ecological Exposure model (TRIM.FaTE). We also selected the same site for assessing noncancer risks from cadmium utilizing the fisher scenario as the site was comparable to the maximum Tier 2 location. The selected site represents the combined contribution of mercury, arsenic, and cadmium emissions from five taconite iron ore processing plants. The site selected was modeled using TRIM.FaTE to assess cancer risk from arsenic emissions and noncancer risks from mercury and cadmium emissions for the fisher and gardener scenarios. The final cancer risk based upon the fisher scenario and gardener scenario was less than 1-in-1 million from arsenic emissions. The final noncancer risks had a hazard index (HI) less than 1 for mercury (0.02) and for cadmium (0.01). Based on these results, at proposal we concluded that there is no significant potential for multipathway health effects.

At proposal, we conducted an environmental risk screening assessment for the Taconite Iron Ore Processing source category for the following pollutants: Arsenic, cadmium, dioxins/furans, HCl, HF, lead, mercury (methyl mercury and mercuric

chloride), and polycyclic organic matter. Based on this evaluation, we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Taconite Iron Ore Processing source category are acceptable (see section IV.A.2.a of the proposal preamble, 84 FR 50677, September 25, 2019).

We then considered whether 40 CFR part 63, subpart RRRRR provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. In this analysis, we focused on cancer risks since all the chronic and acute noncancer HIs and HQs are below the level of concern. The cancer risks are driven by metal HAP emissions (*e.g.,* arsenic, nickel, and chromium VI) from indurating furnaces and fugitive dust sources. The indurating furnaces are currently controlled via wet scrubbers. At proposal, we evaluated the option of reducing emissions from indurating furnaces by installing a wet electrostatic precipitator (wet ESP) after the existing wet scrubbers. Under this scenario, we estimated that the current metal HAP emissions would be reduced by about 99.9 percent, and the MIR would be reduced from 2-in-1 million based on actual emissions and 6-in-1 million based on allowable emissions to less than 1-in-1 million for both actual and allowable emissions. We estimated annual costs of about $167 million for the industry, with a cost effectiveness of about $16 million per ton of metal HAP reduced. Due to the relatively small reduction in risk and the substantial costs associated with this option, we proposed that additional emissions controls for metal HAP from indurating furnaces are not necessary to provide an ample margin of safety to protect public health. See the technical memorandum titled *Taconite Iron Ore Processing—Ample Margin of Safety Analysis,* available in Docket ID No. EPA–HQ–OAR–2017–0664, for details.

For the other affected sources that emit metal HAP (*i.e.,* ore crushing and handling operations, finished pellet handling operations, ore drying, and sources subject to the fugitive dust emission control plan), we proposed that additional emissions controls for metal HAP from these affected sources are not necessary to provide an ample margin of safety to protect public health because the risk reduction would be minimal since about 98 percent of the HAP emissions are from the indurating furnaces. Moreover, we did not identify any developments in practices, processes, and control technologies under the technology review that we could evaluate for achieving additional reductions from these other affected sources.

Given the substantial costs for the enhanced control scenario we identified for the source category that would reduce HAP emissions and considering the small reduction in the already low baseline risk, we proposed that additional emission controls for this source category are not necessary to provide an ample margin of safety (refer to section IV.A.2.b of the proposal preamble, 84 FR 50677, September 25, 2019).

2. How did the risk review change for the Taconite Iron Ore Processing source category?

We received comments both supporting and opposing the proposed residual risk review and our proposed determination that the existing standards protect public health with an ample margin of safety and additional control is not needed to protect against an adverse environmental effect under CAA section 112(f)(2). One commenter provided updated actual and effective production rates and actual fuel use data for two taconite facilities. The EPA utilized the provided data to revise the emissions dataset memorandum for this source category (which is available in the docket for this rulemaking). The final risk assessment report (also available in the docket for this rulemaking) reflects these emissions changes. Since the resulting emissions changes are relatively small and are restricted to just two facilities, we did not remodel the risk for the source category. Instead, we used the revised emissions data to scale the risks up or down, as appropriate, for the two subject facilities. Table 3 of this preamble shows the final risk assessment results after the incorporation of the updated emissions data. There were no resulting changes to the chronic noncancer risks, acute risks, or multipathway risks. There were small changes in the chronic cancer MIRs. Specifically, based on actual emissions, the MIR for both the source category and whole facility increased from 2-in-1 million to 3-in-1 million. Also, based on allowable emissions, the MIR for the source category decreased from 6-in-1 million to 5-in-1 million.

After a review of all of the public comments received and the revised risk estimates, we determined that no changes to our risk review conclusions are necessary.

TABLE 3—TACONITE IRON ORE PROCESSING SOURCE CATEGORY INHALATION RISK ASSESSMENT FINAL RESULTS AFTER EMISSIONS UPDATES

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	3	5	38,000	43,000	0.001	0.001	0.2	0.2	HQREL = <1
Whole Facility	3	.....	40,000	.....	0.001	.....	0.2	.....	.....

[1] The TOSHI is the sum of the chronic noncancer HQs for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values.

3. What comments did we receive on the risk review?

We received comments in support of and against the proposed residual risk reviews and our determinations that no revisions were warranted under CAA section 112(f)(2) for the Taconite Iron Ore Processing source category. One commenter provided updated production and fuel use data for two taconite facilities. The EPA utilized the provided data to revise the emissions dataset memorandum for this source category (which is available in the docket for this rulemaking). The final risk assessment report (also available in the docket for this rulemaking) reflects these emissions changes.

Other comments were received on the air dispersion modeling methods used, the treatment of mercury in the risk assessment (*e.g.,* mercury deposition, methylation, and speciation), the exclusion of non-taconite HAP emissions from the risk assessment (*e.g.,* mobile sources, natural sources, and historical emissions), our risk assessment of lead, the multipathway analysis, the environmental justice analysis, and the ample margin of safety analysis. More details on these and other comments received, and our responses, can be found in the document titled *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which is available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

For the reasons explained in the proposed rule, the Agency determined that the risks from the Taconite Iron Ore Processing source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. We did not receive any data or other information since proposal that supports a change to our proposed determination. Therefore, as proposed, we are not revising 40 CFR part 63, subpart RRRRR, to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review and we are readopting the existing emissions standards under CAA section 112(f)(2).

B. Technology Review for the Taconite Iron Ore Processing Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Taconite Iron Ore Processing source category?

Pursuant to CAA section 112(d)(6), the EPA conducted a technology review and summarized the results of the review in the September 25, 2019, proposal preamble (see section IV.B of the proposal preamble, 84 FR 50678) and in more detail in the memorandum, *Draft Technology Review for the Taconite Iron Ore Processing Source Category,* which is available in the docket for this action (Docket Item No. EPA–HQ–OAR–2017–0664–0103). The technology review investigated practices, processes, and controls with a view toward identifying developments, which may be any of the following:

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in significant additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process changes or pollution prevention alternatives that could be broadly applied to the industry and that were not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying add-on control technology or other equipment to affected sources (including controls the EPA considered during the development of the original MACT standards).

New technologies were identified that improved the efficiency of processes and increased plant production capacity but have no demonstrated ability to reduce HAP emissions. For the control of metal HAP emissions from taconite iron ore processing, all of the technologies identified were in use in the industry during development of the original 40 CFR part 63, subpart RRRRR MACT standards and we did not identify any significant changes in improved control or in cost or cost effectiveness of applying these technologies to taconite iron ore processing facilities. Based on information available to the EPA, the technology review did not identify any developments in practices, processes, or control technologies that would reduce HAP emissions from ore crushing and handling, pellet indurating, pellet handling, ore drying, and/or fugitive dust emission sources.

2. How did the technology review change for the Taconite Iron Ore Processing source category?

The technology review for the Taconite Iron Ore Processing source category has not changed since proposal. As proposed, the EPA is not making changes to the standards pursuant to CAA section 112(d)(6).

3. What comments did we receive on the technology review?

Comments were received that were both supportive of the technology review as well as critical of the technology review. The comments received related to the EPA's decision not to establish mercury standards pursuant to CAA section 112(d)(6) in this action, and our responses to those comments, are provided below. Other comments related to the technology review, and our responses to those comments, can be found in the document titled *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which is available in the docket for this action.

Comment: Several commenters stated that the technology review memorandum states that no new technologies have been identified with regard to mercury emissions. These commenters point out that in 2018, the taconite iron ore processing facilities submitted mercury reduction plans (MRP) to the Minnesota Pollution Control Agency (MPCA) to explain how they planned to reduce their mercury emissions to help the state reach its mercury Total Maximum Daily Load goals. However, the EPA did not list the MRP in the sources of information it considered in its technology review nor did the Agency explain why it did not do so. The commenters contended these documents on the control technologies that are potentially applicable to this industry, identifying technologies such as activated carbon injection with halide or bromide added. Other commenters stated that the EPA indicated that they include the MRP because the MRP addresses water quality issues.

These commenters also identified what they claimed are outdated sources of information and asserted that the EPA's use of outdated technological reports that do not address potential mercury controls indicates that the EPA

had already decided not to require mercury controls but to continue to rely on PM as a surrogate. These commenters contend that the EPA's technology review is incomplete because it fails to even discuss potential mercury controls and that the decision not to do so is arbitrary and capricious, especially given the poor quality of the EPA's risk analysis.

Response: The commenters are mistaken in saying that the technology review addressed mercury emissions from taconite iron ore processing facilities but found no new technologies to control mercury. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to review the emission standards already promulgated in the NESHAP and to revise those standards as necessary taking into account developments in practices, processes, and control technologies. The EPA does not read this provision as directing the Agency, as part of or in conjunction with the mandatory 8-year technology review, to develop new emission standards to address HAP or emission points for which standards were not previously promulgated.[2] Neither the proposed rule nor the technology review memorandum (Docket Item No. EPA–HQ–OAR–2017–0664–0103) for the proposed rule addressed potential controls for mercury emissions.

We note that these MRP are still under review by MPCA and that the technologies discussed therein have only been applied at the taconite processing facilities in pilot scale studies. That is, these control technologies remain unproven at commercial scale and the amount of mercury reduction achieved by them remain uncertain. Also, as noted, the EPA did not regulate mercury in the 2003 NESHAP and the PM standard which is a surrogate for multiple HAP was not established as a surrogate for mercury.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the preamble to the proposed rule, we determined there were no developments under CAA section 112(d)(6) (84 FR 50678). Since proposal, neither the technology review nor our determination that there were no developments for affected sources has changed, and we are not revising 40 CFR part 63, subpart RRRRR, pursuant to CAA section 112(d)(6). The final technology review, *Final Technology Review for the Taconite Iron Ore Processing Source Category,* is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0664).

C. SSM for the Taconite Iron Ore Processing Source Category

1. What did we propose for the Taconite Iron Ore Processing source category?

We proposed amendments to the NESHAP for Taconite Iron Ore Processing to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 50678–50681, September 25, 2019).

2. How did the SSM provisions change for the Taconite Iron Ore Processing source category?

The removal and revision of the SSM provisions for the Taconite Iron Ore Processing source category have not changed since proposal. We are finalizing the removal and revisions of the SSM provisions as proposed, with no changes.

3. What key comments did we receive on the SSM provisions, and what are our responses?

We received five comments related to our proposed revisions to the SSM provisions. The comments were generally supportive of the amendments to require the emission standards to apply at all times. The comments and our responses can be found in the *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses, which is available in the docket for this action.*

4. What is the rationale for our final approach for the SSM provisions?

We evaluated all comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that these amendments remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule (84 FR 50678—50684, September 25, 2019) and in section III.C of this preamble. Therefore, we are finalizing our approach for the SSM provisions as proposed.

D. Other Amendments to the Taconite Iron Ore Processing NESHAP

1. What amendments did we propose?

In the September 25, 2019, action, we proposed the following amendments to the rule:

- We proposed that owners or operators of taconite iron ore processing plants submit electronic copies of required performance test reports and compliance reports through the EPA's CDX using CEDRI.
- We proposed that the minimum duration for test runs for performance tests conducted on ore crushing and handling, finished pellet handling, ore drying, and indurating furnace affected sources be reduced from a minimum of 2 hours for each test run to a minimum of 1 hour for each test run, with the stipulation that if test results indicate emissions are below the method detection limit, then the source's emissions will be assumed equal to the method detection limit when using the results to determine compliance with the MACT standards.
- We proposed the removal of the requirement to conduct quarterly internal baghouse inspections whenever a baghouse is equipped with a BLDS that is installed, operated, and maintained in compliance with the requirements in the Taconite Iron Ore Processing NESHAP.
- We proposed to remove pressure drop as a monitoring option for dynamic wet scrubbers and instead require that the scrubber water flow rate and fan amperage be monitored.
- We proposed a determination that a compound referred to as non-asbestiform amphibole EMP is not a HAP and is, thus, not subject to regulation under CAA section 112.

We also proposed various changes to clarify testing, monitoring, recordkeeping, and reporting requirements and to correct typographical errors, including:

- Revisions to 40 CFR 96.9583 to clarify the dates by which the owners or operators of taconite iron ore processing facilities must comply with the proposed amendments;
- Revisions to 40 CFR 63.9600(b)(2) to clarify when a BLDS alarm becomes an operating system deviation;
- Revisions to 40 CFR 63.9620(f) and 63.9634(b)(3) to resolve conflicting provisions;
- Revisions to 40 CFR 63.9621(b) that clarify the test methods and procedures that must be used to determine

[2] On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN* v. *EPA,* 955 F. 3d. 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

compliance with the applicable emission limits for PM;

- Revisions to 40 CFR 63.9622(d)(2), which establishes the operating limits for wet ESP;
- Revisions to the introductory paragraph of 40 CFR 63.9625 to clarify the requirements for demonstrating initial compliance for air pollution control devices subject to operating limits;
- Revisions to 40 CFR 63.9632(a) to specify different detection limits for BLDS installed after the September 25, 2019, proposal date;
- Revisions to 40 CFR 63.9632(b) to clarify the requirements for CPMS;
- Revisions to 40 CFR 63.9632(f) to clarify the requirements for COMS;
- Revisions to 40 CFR 63.9633(a) and (b) to clarify the monitoring and data collection requirements;
- Revisions to 40 CFR 63.9634(d) to clarify the requirements for baghouses for determining continuous compliance with emission limits;
- Revisions to 40 CFR 63.9634(h)(1) and 40 CFR 63.9634(j)(1) and (2) for clarification;
- Revisions to 40 CFR 63.9641(b)(7) and (8) to clarify the reporting requirements for deviations from emission limitations;
- Revisions to the recordkeeping requirements in 40 CFR 63.9642(a) and (b) to clarify what information must be recorded when an applicable standard is not met as well as what information is required in a performance evaluation plan; and
- Removal of the definitions of *conveyor belt transfer point* and *wet grinding and milling* because the terms are not used in the rule, and the addition of a definition of *wet scrubber.*

We also considered a few other potential amendments to the rule that had been requested by industry, but because we did not have adequate information or data to support a proposed change, we did not propose them as amendments to the rule. Instead, we described the potential amendments that industry requested and solicited comments, data, and any information as to whether the changes were appropriate. The three changes requested by industry for which we solicited information include the following:

- A reduction in the required testing frequency for indurating furnaces from twice per 5-year permit term to once per 5-year permit term;
- An increase in the time allowed after a BLDS alarm to initiate corrective action; and
- An increase from six to 10 for the number of ore crushing and handling operations or finished pellet handling operations that can be considered similar and represented by an emissions test on a single representative unit.

These requested amendments were described in the preamble to the proposed rule (84 FR 50682–50683, September 25, 2019).

2. How did the requirements change since proposal?

Based on the consideration of comments received, we are finalizing all of the proposed amendments with the exception that we are not finalizing the proposed amendment to clarify compliance dates in 40 CFR 63.9583 and the proposed amendment that would have required new BLDS to be more sensitive than existing ones. For those issues on which we solicited additional information, we did not receive sufficient information or data that supported making those changes to the NESHAP at this time.

3. What key comments did we receive and what are our responses?

We received several comments regarding our proposal that a compound referred to as non-asbestiform amphibole EMP is not a HAP and is, thus, not subject to regulation under CAA section 112. A summary of these comments and our responses is provided below. Comments and our responses associated with the other proposed changes were generally supportive and can be found in the *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which is available in the docket for this action.

Comment 1: Several commenters stated that the EPA refuses to set emission limits for EMP, even though it committed to doing so in its 2004 voluntary partial remand in a legal challenge to the 2003 MACT standards. *National Wildlife Federation et. al.* v. *EPA* (D.C. Cir. No. 03–1548) (NWF). The EPA's justification is that EMP are not classified as asbestos nor are they included on the EPA's list of HAP. However, there is no requirement in the remand for EMP to be listed as a HAP for it to be controlled—the remand simply says the EPA will set an emission standard. These commenters also stated that just because EMP are not classified as asbestos nor currently listed as HAP does not mean that they do not cause health problems. This argument ignores the significantly higher rates of mesothelioma on Minnesota's Iron Range, which has been studied by the University of Minnesota and the Minnesota Department of Health (MDH). The MDH study found a 3-percent increase in the risk of contracting mesothelioma for each year of employment in the taconite iron ore industry. According to the commenters, the study shows that taconite iron ore workers have an established risk for mesothelioma related to cumulative EMP exposure although the type of EMP (asbestiform or non-asbestiform) accounting for this association has not been determined with certainty; nor is there certainty as to whether the EMP over 5 micrometers in length are the best metric in this situation, given that the predominant EMP exposure is to minerals 1–3 micrometers in length. According to the commenters, the study further notes that because of the lack of quantitative data on non-asbestiform amphibole EMP, there remains uncertainty on the role of this exposure and the association with mesothelioma and there is additional uncertainty due to the lack of quantitative data on historical exposure to asbestiform EMP from commercial asbestos use. The commenters stated that this report establishes the uncertainties of whether EMP can be implicated in the higher rates of mesothelioma among taconite iron ore workers. One commenter points this out to show why the EPA should act conservatively by setting EMP emissions limits at these facilities. One commenter stated that maintaining good air quality at industrial mining operations is of great importance to the people of northeastern Minnesota, particularly taconite iron ore workers, their families and communities, and to the physicians who serve and care for them. There are serious health risks documented in connection with PM, and also EMP. The EPA should put forth rules that will protect the public and, therefore, should not preclude EMP from regulation when their contribution to human illness is not adequately understood.

Response: Although some research suggests that non-asbestiform amphibole EMP may impact human health (although there is certainly no consensus, and indeed, much uncertainty as to the extent of their impact on human health), the issue for the EPA to regulate this pollutant under section 112 of the CAA is whether it is a HAP. As the EPA discussed in the proposal preamble (84 FR 50683–50684, September 25, 2019) and in the memorandum, *EPA's Analysis of Elongated Mineral Particulate* (available as Docket Item No. EPA–HQ–OAR–2017–0664–0131), non-asbestiform amphibole EMP, such as those emitted

by this source category, are not a HAP as set forth in CAA section 112(b)(1). We do note that these non-asbestiform amphibole EMP are a subset of PM, and emissions of PM are regulated as a surrogate for certain HAP in the current NESHAP for this source category.

We recognize that the voluntary remand order in *NWF* provides for a remand to "enable [EPA] to propose a standard for asbestos and asbestos-like fiber emissions from taconite iron ore processing facilities." At the time EPA requested the voluntary remand, EPA believed that these fibers were HAP subject to regulation under CAA section 112. Based on further analysis, and as explained in more detail in our proposed rule and in our analysis cited above, EPA has determined that the non-asbestiform EMP at issue are not a HAP. Thus, EPA is meeting the court order through this final action determining that it is not required to regulate the subject EMP under CAA section 112. To the extent that the commenter is contending that the court remand order obligates EPA to regulate EMP regardless of whether it has authority to do so under CAA section 112, we disagree. The scope of the litigation at issue was limited to EPA's obligation under CAA section 112(d)(2) and (3) to promulgate MACT standards and any remand order would need to fall within the scope of that legal challenge.

We also note that many of the concerns raised by the commenter appear to address workplace exposure to EMP. The EPA's authority under the CAA is to address pollutants in the ambient air and does not extend to regulating workplace exposure. The Occupational Safety and Health Administration typically addresses workplace exposure concerns.

Comment 2: Several commenters stated that the docket includes a 2019 report on EMP written by the American Iron and Steel Institute (AISI) and that if this is the only document the EPA used, then the EPA's analysis is biased and uninformed. There is no indication that the MDH had any input to this report. Emails between the EPA and MPCA staff found in the docket (regarding fibers emitted from the Northshore taconite facility) indicate that the MPCA does not take the same view as the EPA that the only issue is whether these fibers can be identified as asbestos. According to the commenters, the MPCA argues that scientific consensus is lacking on the public health implications for mineral fibers meeting the more inclusive definitions of an EMP, which can often be as broad as any respirable mineral particles found in the ambient air and, therefore, were taking an approach of precaution in their air permitting approach to the facility. These commenters stated that the docket includes a memorandum from Ann Foss of the MPCA explaining why the MPCA was proposing to change how it regulates EMP. While the MPCA is making changes in the air permit issued to Northshore Mining, it will still continue to regulate EMP, just with newer, statistically driven methods.

One commenter presented a schematic from a conference on EMP held in Charlottesville, Virginia, in October 2017 to illustrate the scope and complexity of EMP. The commenter stated that we do not know enough about EMP to make blanket statements about them and included quotes from the conference recognizing the uncertainty as to the toxicity and carcinogenicity associated with EMP as well as the underlying structural and compositional transformations and health outcomes associated with the various EMP.

The commenter indicated that in the memorandum *EPA's Analysis of Elongated Mineral Particulate* (Docket Item No. EPA–HQ–OAR–2017–0664–0131), the EPA pointed out that the fibers collected by ambient air monitors near the Peter Mitchell mine were non-asbestiform ferro-actinolite and grunerite, not asbestos. The commenter stated that toxicological studies have shown ferro-actinolite is at least as toxic as amosite in animal studies.

The commenter further stated that most studies in EMP science relate to the potential for EMP to cause mesothelioma and other lung malignancies. The commenter noted that the Taconite Workers Health Study (TWHS) also pointed out that there are significantly higher risks of nonmalignant lung disease and hypertensive heart disease in mine workers.

Response: The cited 2019 report on EMP written by AISI was not the only document that informed the EPA's decisions regarding non-asbestiform amphibole EMP. The docket for this rulemaking also includes two studies performed on the Peter Mitchell Mine (*i.e.,* the taconite iron ore mine utilized by the Northshore facility) and on fibers found via ambient air monitoring near Silver Bay (*i.e.,* the town near the associated taconite iron ore processing operations) and the referenced proposal by MPCA to modify its approach to regulating emissions of the subject non-asbestiform amphibole EMP, see Docket Item Nos. EPA–HQ–OAR–2017–0664–0138, –0127, and –0122, respectively.

As discussed in the response to Comment 1, above, the EPA did not cite a lack of human health impact, or the associated lack of consensus or certainty, as rationale for not establishing emissions standards for non-asbestiform amphibole EMP for this source category under CAA section 112. Rather, the rationale for not regulating these fibers directly through the NESHAP for Taconite Iron Ore Processing is that the non-asbestiform amphibole EMP are not a HAP as set forth in CAA section 112(b)(1).

The Minnesota regulations that apply to the "Minnesota Fibers" are not based on the authority of the CAA, but rather on Minnesota state law. The above-referenced MPCA proposal to change how it regulates these fibers contains a summary of these historical authorities. However, for the purposes of setting MACT standards, the EPA cannot use the state law authorities relied on by MPCA to regulate Minnesota Fibers (or any other pollutant) but rather only the authorities provided by CAA section 112. As the EPA previously noted, CAA section 112 does not provide the EPA with authority to regulate substances that are not listed as a HAP as set forth in CAA section 112(b)(1). Nevertheless, as mentioned in response above, these non-asbestiform amphibole EMP are a subset of PM, and emissions of PM are regulated as a surrogate for certain HAP in the current NESHAP for this source category.

Comment 3: One commenter stated that there is no need for the proposed rule to mention EMP, and, therefore, the EPA should remove this reference from the rule. The commenter stated that EMP as a broad class have not been defined to be a HAP under the CAA, and as such, they are not subject to regulation under CAA section 112. There is a specific class of EMP that is regulated: Commercial asbestos. The commenter pointed out two issues: (1) It is incorrect to state that the EPA does not regulate EMP, because the EPA does, in fact, regulate specific EMP (the prime example being commercial asbestos), and (2) stating that the EPA chooses not to regulate EMP gives the false impression they are not worthy of concern.

Response: As discussed in the response to Comment 1, above, non-asbestiform amphibole EMP are the subject of a 2004 remand of the NESHAP for Taconite Iron Ore Processing. The EPA is addressing that remand based on the convincing information supporting that these non-asbestiform amphibole EMP are not a HAP as set forth in CAA section

112(b)(1) and, thus, not subject to regulation under CAA section 112.

We regret any confusion that may have arisen in regard to the terms used in the preamble of the proposed rule to refer to the subject fibers, or any false impressions that may have resulted from our proposal to not regulate the subject non-asbestiform amphibole EMP under the NESHAP for Taconite Iron Ore Processing. The discussion of EMP in the preamble to the proposed rule was not intended to address all types of EMP but rather referred only to non-asbestiform amphibole EMP emitted from taconite iron ore processing. As the commenter points out, the EPA already does regulate the EMP that qualify as asbestos in other various NESHAP because asbestos is a HAP as set forth in CAA section 112(b)(1).

Comment 4: One commenter stated that following a challenge to the EPA decision that resulted in a partial voluntary remand of the original standards for the Taconite Iron Ore Processing source category, the EPA conducted a more fulsome analysis of the EMP compounds and correctly determined that non-asbestiform amphibole EMP emitted by the Taconite Iron Ore Processing source category does not meet the definition of asbestos or fine mineral fibers. Moreover, EMP is not listed as a HAP under the CAA. The commenter stated that the EPA is not obligated (and indeed is unable) to establish emission standards for these compounds under the Taconite Iron Ore Processing NESHAP, nor would it be appropriate to do so. The commenter further stated that as the preamble observes, the conclusion that EMP is not asbestos is supported not only by recent scientific developments, but also by the consistent definition of "asbestos" in other CAA and Toxic Substances Control Act regulations, such as, the National Emission Standard for Asbestos (40 CFR part 61, subpart M). Because the EMP compounds emitted from taconite facilities are not asbestiform and otherwise do not satisfy the elements of the definition, they are not asbestos.

The commenter also stated that EMP should not be regulated as a fine mineral fiber because it does not fit within the definition of that HAP. The preamble states that the "fine mineral fibers" definition specifically applies to synthetic vitreous fibers largely associated with processing of glass, rock, or slag fibers. Because this definition is specific and limited to particular fibers and clearly does not include EMP, the EPA reasonably concluded that EMP should not be regulated as fine mineral fibers.

Response: The EPA acknowledges and appreciates the support of this commenter. We do note, however, that our discussion of EMP in this rulemaking is restricted to those non-asbestiform EMP emitted from taconite iron ore processing, as discussed in the response to Comment 3, above. Other EMP may well meet the definition of "asbestos" or "fine mineral fibers" or some other HAP as set forth in CAA section 112(b)(1).

Comment 5: One commenter stated that the EPA's decision that regulation of EMP compounds under CAA section 112 is unnecessary is bolstered by studies published since 2003, which have found that EMP are less likely to cause hazardous health effects than asbestos. The commenter noted that those studies suggest that the lower health hazard may be due, in part, to the biological processes by which they are transported in tissue.

Response: As discussed in the responses to Comments 1 and 2, above, the Agency's basis for not regulating these fibers under the NESHAP for Taconite Iron Ore Processing is that they are not a HAP as set forth under CAA section 112(b)(1) and, therefore, the EPA does not have authority to regulate these fibers in the NESHAP. The EPA did not rely on health studies regarding these particles and our decision not to regulate these particles under the NESHAP should not be construed as a decision by the EPA on potential impacts of these non-asbestiform amphibole EMP on human health. That issue is outside the scope of this rulemaking.

Comment 6: One commenter stated that EMP are sufficiently controlled by PM control devices. The commenter noted that in the motion for a voluntary remand associated with the NESHAP, the EPA stated to the Court that it intends to propose that these fibers be regulated by using the emissions limitation for PM as a surrogate and to take public comment on such proposal. The commenter noted the EPA's position in the proposed RTR that EMP is not asbestos, thus, not HAP. The commenter stated that emissions of EMP are controlled by operating PM control devices, good fugitive dust management practices, and ongoing facility operation and maintenance, and that ambient air monitoring for EMP is a condition of the facility's air emissions operating permit, in effect and ongoing. The commenter believed that, after review of the EPA's assessment, that with this continued regulatory approach, available evidence does not currently reflect any increased risk for the broader community.

Response: As discussed in the responses to Comments 1 and 2, above, and as recognized by the commenter, the EPA is not proposing to regulate the subject non-asbestiform amphibole EMP. We agree with the commenter that PM controls currently used by the taconite iron ore processing facilities to address certain HAP emissions also limit emissions of the amphibole non-asbestiform EMP at the Northside facility.

4. What is our final approach for these amendments?

For the reasons explained in the preamble to the proposed rule and after considering comments on the proposed rule, we are now finalizing the following amendments to the rule:

- Requiring that owners or operators of taconite iron ore processing plants submit electronic copies of required performance test reports and compliance reports.
- Reducing the minimum duration for test runs for performance tests conducted from a minimum of 2 hours for each test run to a minimum of 1 hour for each test run.
- Removing the requirements to conduct quarterly internal baghouse inspections whenever a baghouse is equipped with a properly installed, operated, and maintained BLDS.
- Removing pressure drop as a monitoring option for dynamic wet scrubbers.
- Determining that compounds referred to as non-asbestiform amphibole EMP are not a HAP as set forth in CAA section 112(b)(1) and, thus, are not subject to regulation under CAA section 112.

We are not finalizing our proposal to amend 40 CFR 63.9632(a) to require that lower detection limits apply to BLDS installed after the September 25, 2019, proposal date. The proposed increase in required sensitivity for new BLDS was similar to what the EPA required in several recent new source performance standards and NESHAP rulemakings. However, in those cases, the increase in required BLDS detection sensitivity was triggered by circumstances specific to the source categories being addressed at that time (*e.g.*, reduction in allowable emission rates or unacceptable risks). In the case of the NESHAP for Taconite Iron Ore Processing, we neither proposed to find the risks unacceptable nor to tighten the associated MACT PM standards. The EPA believes that the PM loading to control devices installed on affected sources at taconite iron ore processing facilities is at a level where the BLDS sensitivity currently required under the NESHAP is sufficient to

ensure compliance with the MACT standards and that these MACT standards protect health and the environment with an ample margin of safety. Therefore, the final rule does not include the tightened detection sensitivity requirement for new BLDS.

We are not amending 40 CFR 63.9583 to specify the compliance dates for the changes made to the rule as provided in the proposed rule. Instead, we have added the compliance date requirements to each section where changes to the rule have been made. We believe this approach more clearly communicates the dates by which compliance with the new requirements is required.

We are not amending the rule to include the changes requested by industry for which we solicited information at proposal because we did not receive sufficient additional information that supported making the requested changes at this time.

E. Compliance Dates of the Revisions to the NESHAP

1. What compliance dates did we propose?

We proposed compliance dates of 180 days after promulgation of the final rule for all of the NESHAP revisions.

2. What changed since proposal?

We modified the dates by which the owners or operators of taconite iron ore processing facilities must be in compliance with the final amendments. Specifically, we modified the compliance dates of some General Provisions to the date of promulgation of the final rule and we modified the compliance dates for monitoring of fan amperage of dynamic wet scrubbers to 18 months after promulgation of the final rule. We also modified certain rule provisions to state that affected sources that construct or reconstruct after the date of the proposed rule must comply on the effective date of the final rule or date of startup, whichever is later.

3. What comments did we receive and what are our responses?

Commenters generally supported the September 25, 2019, proposed compliance dates. However, one commenter did object to the proposed requirement to comply with monitoring requirements for fan amperage on dynamic wet scrubbers within 180 days of promulgation of the final rule. For the reasons cited in section IV.E.4 of this preamble, below, we are finalizing a compliance date of 18 months after promulgation of the final rule for the requirement to comply with fan amperage monitoring requirements for a dynamic wet scrubber for which the owner or operator previously monitored pressure drop.

Summaries of these comments and the EPA responses are contained in the *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* which is available in the docket for this action.

4. What is the rationale for our final approach for these amendments?

Our experience with similar industries that have been required to convert reporting mechanisms, become familiar with required templates, learn the process of submitting compliance reports electronically through the EPA's CEDRI, test these new electronic submission capabilities, and reliably employ electronic reporting, shows that a time period of at least 180 days is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is finalizing the requirement that existing affected sources be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date.

In 2009, the Court vacated two specific General Provision exemptions, namely, 40 CFR 63.6(f)(1) and 63.6(h)(1). Since those sections are already vacated, the removal of their "applicability" in our rules is strictly ministerial.

We changed the compliance date for monitoring requirements for fan amperage on dynamic wet scrubbers from 180 days after promulgation of the final rule to 18 months after promulgation of the final rule for taconite iron ore processing facilities that operate dynamic wet scrubbers and have been monitoring their operation using pressure drop and water flow rate. Under the final rule, these facilities must convert to monitoring fan amperage and water flow rate. In these cases, the owner or operator of the facility must modify their parametric monitoring system and conduct testing in order to comply with the monitoring requirements in the final rule. In our experience with similar industries, these activities can take up to 18 months. Therefore, the final rule allows these facilities up to 18 months to comply with the requirement to monitor fan amperage on dynamic wet scrubbers. For dynamic wet scrubbers that commence construction or reconstruction after the proposal date of September 25, 2019, owner or operators must comply with the requirements to monitor both the water flow rate and fan amperage upon startup, or by the date of promulgation of the final rule, whichever is later.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

We anticipate that the eight taconite iron ore processing facilities currently operating in the United States will be affected by this final rule.

B. What are the air quality impacts?

We are not establishing new emission limits and are not requiring additional controls; therefore, no significant air quality impacts are expected as a result of the final amendments to the rule. However, we believe that the removal of exemptions during periods of SSM and the enhanced transparency associated with electronic reporting may result in unquantifiable benefits and air quality impacts.

C. What are the cost impacts?

As described in the proposed rule and covered in detail in the cost memorandum in the docket to this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0664), the final amendments to reduce testing duration and the elimination of the requirement to conduct internal visual baghouse inspections will result in an estimated overall cost savings to industry of $190,000 per year.

D. What are the economic impacts?

Because the overall costs and savings to industry associated with the proposed revisions are relatively small,

no significant economic impacts from the final amendments are anticipated.

E. What are the benefits?

While the amendments in this final rule do not require any new reductions in emissions of HAP, this action results in improved monitoring, compliance, and implementation of the rule. The final rule increases transparency and public availability of data via the requirement for electronic submittal of compliance test results and reports.

F. What analysis of environmental justice did we conduct?

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Taconite Iron Ore Processing source category across different demographic groups within the populations living near facilities. That analysis indicates that actual emissions from the source category expose approximately 38,000 people to a cancer risk at or above 1-in-1 million and no one to a chronic noncancer HI greater than 1. The percent of minorities nationally (38 percent) is much higher than for the category population with cancer risk greater than or equal to 1-in-1 million (7 percent). The category population with cancer risk greater than or equal to 1-in-1 million has a greater percentage of Native American (2.8 percent) as compared to nationally (0.8 percent), but lower percentages for African American (1 percent) and Hispanic (1 percent) as compared to nationally (12 percent and 18 percent, respectively). The category population with cancer risk greater than or equal to 1-in-1 million has a lower percentage of the population below the poverty level (14 percent) as compared to nationally (19 percent). Therefore, the EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples. The documentation for this decision is contained in section IV.A.1 of the proposal preamble (84 FR 50676—50677) and in the *Taconite Iron Ore Processing Demographic Analysis Report,* which is available in this rulemaking docket (Docket Item No. EPA–HQ–OAR–2017–0664–0129).

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are protective of the most vulnerable populations, including children, due to how we determine exposure and through the health benchmarks that we use. Specifically, the risk assessments we perform assume a lifetime of exposure, in which populations are conservatively presumed to be exposed to airborne concentrations at their residence continuously, 24 hours per day for a 70-year lifetime, including childhood. With regards to children's potentially greater susceptibility to noncancer toxicants, the assessments rely on the EPA's (or comparable) hazard identification and dose-response values that have been developed to be protective for all subgroups of the general population, including children. For more information on the risk assessment, see summary in section IV.A of this preamble and the final Taconite Risk Report, which is available in the docket to this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0664).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule will be submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2050.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing amendments that require electronic reporting, remove the malfunction exemption, and impose other revisions that affect reporting and recordkeeping for taconite iron ore processing facilities. This information will be collected to assure compliance with 40 CFR part 63, subpart RRRRR.

Respondents/affected entities: Owners or operators of taconite iron ore processing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart RRRRR).

Estimated number of respondents: Eight (total).

Frequency of response: Initial, semiannual, and annual.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be 1,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting burden for facilities to comply with all the requirements in the NESHAP is estimated to be $550,000 (per year). The only costs associated with the information collection activity is labor cost. There are no capital/startup or operation and maintenance costs for this ICR.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Based on the Small Business Administration size category for this source category, no small entities are subject to this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No tribal governments own facilities subject to this action. Thus, Executive Order 13175 does not apply to this action. However, since tribal officials expressed significant interest in this rulemaking, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials during the development of this action. A summary of that consultation is provided in the docket to this rulemaking (Docket Item Nos. EPA–HQ–OAR–2017–0664–0142, EPA–HQ–OAR–2017–0664–0144, and EPA–HQ–OAR–2017–0664–0145). Tribal officials also provided written comments on the proposed rule. A summary of their comments along with the EPA's responses are in the preamble to this final rule or in the *National Emissions Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review Summary of Public Comments and Responses,* available in Docket ID No. EPA–HQ–OAR–2017–0664.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and in section IV of the September 25, 2019, proposal preamble and are further documented in the final Taconite Risk Report, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0664).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use ANSI/ASME PTC 19.10–1981 Part 10, "Flue and Exhaust Gas Analyses," manual portion only, as an alternative to EPA Method 3B and incorporates the alternative method by reference. The ANSI/ASME PTC 19.10–1981 Part 10 method incorporates both manual and instrumental methodologies for the determination of oxygen content of the exhaust gas. The manual method segment of the oxygen determination is performed through the absorption of oxygen. The method is acceptable as an alternative to EPA Method 3B and is available from the American Society of Mechanical Engineers (ASME) at *http://www.asme.org;* by mail at Three Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. EPA Method 3B is applicable for the determination of oxygen, carbon dioxide, and carbon monoxide concentrations in the exhaust gas from fossil-fuel combustion for use in excess air or emission rate correction factor calculations. The EPA is continuing to require the use of the EPA's "Fabric Filter Bag Leak Detection Guidance" to develop monitoring plans for BLDS. This publication (EPA–454/R–98–015) provides guidance on the selection, setup, adjustment, operation, and quality assurance of fabric filter BLDS and is available at *https://www3.epa.gov/ttnemc01/cem/tribo.pdf.*

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The risks for this source category were found to be acceptable for all populations, including minority pollutions, low income populations, and/or indigenous people. In addition, this action increases the level of environmental protection for all affected populations through improved compliance. Specifically, the final rule removes SSM exemptions and clarifies testing, monitoring, recordkeeping, and reporting requirements. The results of the final risk analysis are contained in section IV.A of this preamble and in the final risk assessment report (available in the docket for this rulemaking). The results of the demographics analysis are contained in section V.F of this preamble and the *Taconite Iron Ore Processing Demographic Analysis Report,* which is available in this rulemaking docket (Docket Item No. EPA–HQ–OAR–2017–0664–0129).

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,
Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 63.14 is amended by revising paragraphs (e)(1) and (n)(3) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), 63.1625(b), table 5 to subpart EEEE, 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, table3 to subpart YYYY, 63.7822(b), 63.7824(e), 63.7825(b), 63.9307(c), 63.9323(a), 63.9621(b) and (c), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g),

63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJJ.

* * * * *

(n) * * *

(3) EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF,* IBR approved for §§ 63.548(e), 63.864(e), 63.7525(j), 63.8450(e), 63.8600(e), 63.9632(a), and 63.11224(f).

* * * * *

■ 3. Section 63.9590 is amended by revising paragraph (b)(2) to read as follows:

§ 63.9590 What emission limitations must I meet?

* * * * *

(b) * * *

(2) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each dynamic wet scrubber applied to meet any particulate matter emission limit in Table 1 to this subpart, you must maintain the daily average scrubber water flow rate and either the daily average fan amperage (a surrogate for fan speed as revolutions per minute) or the daily average pressure drop at or above the minimum levels established during the initial performance test. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each dynamic wet scrubber applied to meet any particulate matter emission limit in Table 1 to this subpart, you must maintain the daily average scrubber water flow rate and the daily average fan amperage (a surrogate for fan speed as revolutions per minute) at or above the minimum levels established during the initial performance test.

* * * * *

■ 4. Section 63.9600 is amended by revising paragraphs (a) and (b)(2) introductory text to read as follows:

§ 63.9600 What are my operation and maintenance requirements?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, at all times, you must always operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(b) * * *

(2) Corrective action procedures for bag leak detection systems. On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, in the event a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. Corrective actions may include, but are not limited to, the actions listed in paragraphs (b)(2)(i) through (vi) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, in the event a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. If the alarm sounds more than 5 percent of the operating time during a 6-month period as determined according to § 63.9634(d)(3), it is considered an operating parameter deviation. Corrective actions may include, but are not limited to, the actions listed in paragraphs (b)(2)(i) through (vi) of this section.

* * * * *

■ 5. Section 63.9610 is amended by revising paragraph (a) introductory text and paragraph (c) to read as follows:

§ 63.9610 What are my general requirements for complying with this subpart?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must be in compliance with the requirements in paragraphs (a)(1) through (6) of this section at all times, except during periods of startup, shutdown, and malfunction. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, for affected sources that commenced construction or reconstruction after September 25, 2019, you must be in compliance with the emission limitations, standards, and operation and maintenance requirements in this subpart at all times.

* * * * *

(c) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). For affected sources, a startup, shutdown, and malfunction plan is not required after January 25, 2021. No startup, shutdown, and malfunction plan is required for affected sources that commenced construction or reconstruction after September 25, 2019.

■ 6. Section 63.9620 is amended by revising paragraph (f) introductory text to read as follows:

§ 63.9620 On which units and by what date must I conduct performance tests or other initial compliance demonstrations?

* * * * *

(f) If you elect to test representative emission units as provided in paragraph (e) of this section, the units that are grouped together as similar units must meet the criteria in paragraphs (f)(1) and (2) of this section.

* * * * *

■ 7. Section 63.9621 is amended by revising paragraphs (a), (b)(1) and (2), and (c)(1) and (2) to read as follows:

§ 63.9621 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must conduct each performance test that applies to your affected source according to the requirements in § 63.7(e)(1) and paragraphs (b) and (c) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, you must conduct each performance test that applies to your affected source under normal operating conditions of the affected source. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. You must also conduct each performance test that applies to your affected source according to the requirements in paragraphs (b) and (c) of this section.

(b) * * *

(1) Except as provided in § 63.9620(e), determine the concentration of particulate matter in the stack gas for each emission unit according to the test methods listed in paragraphs (b)(1)(i) through (v) of this section.

(i) EPA Method 1 or 1A in appendix A–1 to part 60 of this chapter to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) EPA Method 2, 2A, 2C, 2D, or 2F in appendix A–1 to part 60 of this chapter or EPA Method 2G in appendix A–2 to part 60 of this chapter, as applicable, to determine the volumetric flow rate of the stack gas.

(iii) EPA Method 3A or 3B in appendix A–2 to part 60 of this chapter to determine the dry molecular weight of the stack gas. The voluntary consensus standard ANSI/ASME PTC 19.10–1981 (incorporated by reference-see § 63.14) may be used as an alternative to the manual procedures (but not instrumental procedures) in EPA Method 3B.

(iv) EPA Method 4 in appendix A–3 to part 60 of this chapter to determine the moisture content of the stack gas.

(v) EPA Method 5 or 5D in appendix A–3 to part 60 of this chapter or EPA Method 17 in appendix A–6 to part 60 of this chapter to determine the concentration of particulate matter.

(2) Each EPA Method 5, 5D, or 17 performance test must consist of three separate runs. Each run must be conducted for a minimum of 1 hour. If any measurement result is reported as below the method detection limit, use the method detection limit for that value when calculating the average particulate matter concentration. The average particulate matter concentration from the three runs will be used to determine compliance, as shown in Equation 1 of this section.

$$C_i = \frac{C_1 + C_2 + C_3}{3} \quad (Eq.\ 1)$$

Where:

C_i = Average particulate matter concentration for emission unit, grains per dry standard cubic foot, (gr/dscf);

C_1 = Particulate matter concentration for run 1 corresponding to emission unit, gr/dscf;

C_2 = Particulate matter concentration for run 2 corresponding to emission unit, gr/dscf; and

C_3 = Particulate matter concentration for run 3 corresponding to emission unit, gr/dscf.

* * * * *

(c) * * *

(1) Determine the concentration of particulate matter for each stack according to the test methods listed in paragraphs (c)(1)(i) through (v) of this section.

(i) EPA Method 1 or 1A in appendix A–1 to part 60 of this chapter to select sampling port locations and the number of traverse points. Sampling ports must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) EPA Method 2, 2A, 2C, 2D, or 2F in appendix A–1 to part 60 of this chapter or EPA Method 2G in appendix A–2 to part 60 of this chapter, as applicable, to determine the volumetric flow rate of the stack gas.

(iii) EPA Method 3A or 3B in appendix A–2 to part 60 of this chapter to determine the dry molecular weight of the stack gas. The voluntary consensus standard ANSI/ASME PTC 19.10–1981 (incorporated by reference-see § 63.14) may be used as an alternative to the manual procedures (but not instrumental procedures) in EPA Method 3B.

(iv) EPA Method 4 in appendix A–3 to part 60 of this chapter to determine the moisture content of the stack gas.

(v) EPA Method 5 or 5D in appendix A–3 to part 60 of this chapter to determine the concentration of particulate matter.

(2) Each EPA Method 5 or 5D performance test must consist of three separate runs. Each run must be conducted for a minimum of 1 hour. If any measurement result is reported as below the method detection limit, use the method detection limit for that value when calculating the average particulate matter concentration. The average particulate matter concentration from the three runs will be used to determine compliance, as shown in Equation 1 of this section.

* * * * *

■ 8. Section 63.9622 is amended by revising paragraphs (b) and (d)(2) to read as follows:

§ 63.9622 What test methods and other procedures must I use to establish and demonstrate initial compliance with the operating limits?

* * * * *

(b) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for dynamic wet scrubbers subject to performance testing in § 63.9620 and operating limits for scrubber water flow rate and either fan amperage or pressure drop in § 63.9590(b)(2), you must establish site-specific operating limits according to the procedures in paragraphs (b)(1) and (2) of this section. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for dynamic wet scrubbers subject to performance testing in § 63.9620 and operating limits for scrubber water flow rate and fan amperage in § 63.9590(b)(2), you must establish site-specific operating limits according to the procedures in paragraphs (b)(1) and (2) of this section.

(1) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, using the CPMS required in § 63.9631(b), measure and record the scrubber water flow rate and either the fan amperage or pressure drop every 15 minutes during each run of the particulate matter performance test. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September

25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, using the CPMS required in § 63.9631(b), measure and record the scrubber water flow rate and the fan amperage every 15 minutes during each run of the particulate matter performance test.

(2) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, calculate and record the average scrubber water flow rate and either the average fan amperage or the average pressure drop for each individual test run. Your operating limits are established as the lowest average scrubber water flow rate and either the lowest average fan amperage or pressure drop value corresponding to any of the three test runs. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, calculate and record the average scrubber water flow rate and the average fan amperage for each individual test run. Your operating limits are established as the lowest average scrubber water flow rate and the lowest average fan amperage value corresponding to any of the three test runs.

* * * * *

(d) * * *

(2) For each individual test run, calculate and record the average value for each operating parameter in paragraphs (d)(1)(i) through (iii) of this section for each wet electrostatic precipitator field. Your operating limits are established as the lowest average value for each operating parameter of secondary voltage and water flow rate corresponding to any of the three test runs, and the highest average value for each stack outlet temperature corresponding to any of the three test runs.

* * * * *

■ 9. Section 63.9623 is amended by revising paragraph (b)(2) to read as follows:

§ 63.9623 How do I demonstrate initial compliance with the emission limitations that apply to me?

* * * * *

(b) * * *

(2) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each dynamic wet scrubber subject to performance testing in § 63.9620 and operating limits for scrubber water flow rate and either fan amperage or pressure drop in § 63.9590(b)(2), you have established appropriate site-specific operating limits and have a record of the scrubber water flow rate and either the fan amperage or pressure drop value, measured during the performance test in accordance with § 63.9622(b). After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each dynamic wet scrubber subject to performance testing in § 63.9620 and operating limits for scrubber water flow rate and fan amperage in § 63.9590(b)(2), you have established appropriate site-specific operating limits and have a record of the scrubber water flow rate and the fan amperage value, measured during the performance test in accordance with § 63.9622(b).

* * * * *

■ 10. Section 63.9625 is amended by revising the introductory text to read as follows:

§ 63.9625 How do I demonstrate initial compliance with the operation and maintenance requirements that apply to me?

For each air pollution control device subject to operating limits in § 63.9590(b), you have demonstrated initial compliance with the operation and maintenance requirements if you meet all of the requirements in paragraphs (a) through (d) of this section.

* * * * *

■ 11. Section 63.9631 is amended by revising paragraphs (a) introductory text and (c) to read as follows:

§ 63.9631 What are my monitoring requirements?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each baghouse applied to meet any particulate matter emission limit in Table 1 to this subpart, you must install, operate, and maintain a bag leak detection system to monitor the relative change in particulate matter loadings according to the requirements in § 63.9632(a), and conduct inspections at their specified frequencies according to the requirements in paragraphs (a)(1) through (8) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each baghouse applied to meet any particulate matter emission limit in Table 1 to this subpart, you must install, operate, and maintain a bag leak detection system to monitor the relative change in particulate matter loadings according to the requirements in § 63.9632(a), and conduct inspections at their specified frequencies according to the requirements in paragraphs (a)(1) through (6) and (8) of this section. For each baghouse applied to meet any particulate matter emission limit in Table 1 to this subpart that is not required by § 63.9632(a) to be equipped with a bag leak detection system, you must conduct inspections at their specified frequencies according to the requirements in paragraphs (a)(1) through (8) of this section.

* * * * *

(c) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each dynamic wet scrubber subject to the scrubber water flow rate and either the fan amperage or pressure drop operating limits in § 63.9590(b)(2), you must install, operate, and maintain a CPMS according to the requirements in § 63.9632(b) through (e) and monitor the daily average scrubber water flow rate and either the daily average fan amperage or the daily average pressure drop according to the requirements in § 63.9633. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each dynamic wet scrubber subject to the scrubber water flow rate and the fan amperage operating limits in § 63.9590(b)(2), you must install, operate, and maintain a CPMS according to the requirements in § 63.9632(b) through (e) and monitor the daily average scrubber water flow rate and the daily average fan amperage according to the requirements in § 63.9633.

* * * * *

■ 12. Section 63.9632 is amended by:

■ a. Revising paragraph (a) introductory text.

■ b. Redesignating paragraphs (a)(3) through (8) as paragraphs (a)(4) through (9).
■ c. Adding new paragraph (a)(3).
■ d. Revising newly redesignated paragraphs (a)(4), (a)(5) introductory text, (a)(7) introductory text, and (a)(7)(i).
■ e. Revising paragraphs (b)(3) through (6) and (f)(2) and (4).

The revisions and addition read as follows:

§ 63.9632 What are the installation, operation, and maintenance requirements for my monitoring equipment?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each negative pressure baghouse or positive pressure baghouse equipped with a stack, applied to meet any particulate emission limit in Table 1 to this subpart, you must install, operate, and maintain a bag leak detection system for each exhaust stack according to the requirements in paragraphs (a)(1) and (2) and (a)(4) through (9) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each negative pressure baghouse or positive pressure baghouse equipped with a stack, applied to meet any particulate emission limit in Table 1 to this subpart, you must install, operate, and maintain a bag leak detection system for each exhaust stack according to the requirements in paragraphs (a)(1) through (9) of this section.

* * * * *

(3) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(4) The system must be equipped with an alarm that will sound when an increase in relative particulate loadings is detected over the alarm level set point established according to paragraph (a)(5) of this section. The alarm must be located such that it can be heard by the appropriate plant personnel.

(5) For each bag leak detection system, you must develop and submit to the Administrator for approval, a site-specific monitoring plan that addresses the items identified in paragraphs (a)(5)(i) through (v) of this section. The monitoring plan shall be consistent with the manufacturer's specifications and recommendations contained in the U.S. Environmental Protection Agency (U.S. EPA) guidance document, ''Fabric Filter Bag Leak Detection Guidance'' (EPA–454/R–98–015) (incorporated by reference—see § 63.14). You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. The plan shall describe all of the items in paragraphs (a)(5)(i) through (v) of this section.

* * * * *

(7) Following initial adjustment, do not adjust sensitivity or range, averaging period, alarm set point, or alarm delay time, without approval from the Administrator except as provided for in paragraph (a)(7)(i) of this section. In no event may the sensitivity be increased more than 100 percent or decreased by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection that demonstrates the baghouse is in good operating condition.

(i) Once per quarter, you may adjust the sensitivity or range of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required under paragraph (a)(5) of this section.

* * * * *

(b) * * *

(3) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, performance evaluation procedures and acceptance criteria (*e.g.,* calibrations). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, performance evaluation procedures, a schedule for performing such procedures, and acceptance criteria (*e.g.,* calibrations), as well as corrective action to be taken if a performance evaluation does not meet the acceptance criteria. If a CPMS calibration fails, the CPMS is considered to be inoperative until you take corrective action and the system passes calibration.

(4) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (3), (4)(ii), (7), and (8). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, ongoing operation and maintenance procedures and a schedule for preventative maintenance procedures, in a manner consistent with good air pollution control practices and in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), and (c)(7) and (8).

(5) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(1) and (2). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

(6) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c)(1) through (14), (e)(1), and (e)(2)(i).

* * * * *

(f) * * *

(2) On or before January 25, 2021, for affected sources that commenced

construction or reconstruction on or before September 25, 2019, you must develop and implement a quality control program for operating and maintaining each continuous opacity monitoring system (COMS) according to § 63.8. At a minimum, the quality control program must include a daily calibration drift assessment, quarterly performance audit, and annual zero alignment of each COMS. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, you must develop and implement a quality control program for operating and maintaining each COMS according to § 63.8(a) and (b), (c)(1)(ii), (c)(2) through (8), (d)(1) and (2), and (e) through (g) and Procedure 3 in appendix F to 40 CFR part 60. At a minimum, the quality control program must include a daily calibration drift assessment, quarterly performance audit, and annual zero alignment of each COMS.

* * * * *

(4) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must determine and record the 6-minute average opacity for periods during which the COMS is not out of control. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, you must determine and record the 6-minute average opacity for periods during which the COMS is not out of control. All COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

■ 13. Section 63.9633 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.9633 How do I monitor and collect data to demonstrate continuous compliance?

(a) Except for monitoring malfunctions, out of control periods, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times an affected source is operating.

(b) You may not use data recorded during monitoring malfunctions, out of control periods, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, or to fulfill a minimum data availability requirement. You must use all the data collected during all other periods in assessing compliance.

■ 14. Section 63.9634 is amended by:

■ a. Revising paragraphs (b)(3), (d) introductory text, and (d)(2).

■ b. Adding paragraph (d)(3).

■ c. Revising paragraphs (f) introductory text, (f)(1), (3), and (4), (h)(1), and (j)(1) and (2).

The revisions and addition read as follows:

§ 63.9634 How do I demonstrate continuous compliance with the emission limitations that apply to me?

* * * * *

(b) * * *

(3) For ore crushing and handling and finished pellet handling emission units not selected for initial performance testing and defined within a group of similar emission units in accordance with § 63.9620(e), the site-specific operating limits established for the emission unit selected as representative of a group of similar emission units will be used as the operating limit for each emission unit within the group. The operating limit established for the representative unit must be met by each emission unit within the group.

* * * * *

(d) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each baghouse applied to meet any particulate emission limit in Table 1 to this subpart, you must demonstrate continuous compliance by completing the requirements in paragraphs (d)(1) and (2) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each baghouse applied to meet any particulate emission limit in Table 1 to this subpart, you must demonstrate continuous compliance by completing the requirements in paragraphs (d)(1) through (3) of this section.

* * * * *

(2) Inspecting and maintaining each baghouse according to the requirements in § 63.9631(a) and recording all information needed to document conformance with the requirements in § 63.9631(a). If you increase or decrease the sensitivity of the bag leak detection system beyond the limits specified in your site-specific monitoring plan, you must include a copy of the required written certification by a responsible official in the next semiannual compliance report.

(3) Each bag leak detection system must be operated and maintained such that the alarm does not sound more than 5 percent of the operating time during a 6-month period. Calculate the alarm time as specified in paragraphs (d)(3)(i) through (iii) of this section.

(i) If inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted.

(ii) If corrective action is required, each alarm time (*i.e.,* time that the alarm sounds) is counted as a minimum of 1 hour.

(iii) If it takes longer than 1 hour to initiate corrective action, each alarm time is counted as the actual amount of time taken to initiate corrective action.

* * * * *

(f) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each dynamic wet scrubber subject to the operating limits for scrubber water flow rate and either the fan amperage or pressure drop in § 63.9590(b)(2), you must demonstrate continuous compliance by completing the requirements of paragraphs (f)(1) through (4) of this section. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each dynamic wet scrubber subject to the operating limits for scrubber water flow rate and the fan amperage in § 63.9590(b)(2), you must demonstrate continuous compliance by completing the requirements of paragraphs (f)(1) through (4) of this section.

(1) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, maintaining the daily average scrubber water flow rate and either the daily average fan amperage or the daily average pressure drop at or above the minimum levels established during the initial or subsequent performance test. After January 28, 2022, for affected sources

that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, maintaining the daily average scrubber water flow rate and the daily average fan amperage at or above the minimum levels established during the initial or subsequent performance test.

* * * * *

(3) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, collecting and reducing monitoring data for scrubber water flow rate and either fan amperage or pressure drop according to § 63.9632(c) and recording all information needed to document conformance with the requirements in § 63.9632(c). After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, collecting and reducing monitoring data for scrubber water flow rate and fan amperage according to § 63.9632(c) and recording all information needed to document conformance with the requirements in § 63.9632(c).

(4) On or before January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, if the daily average scrubber water flow rate, daily average fan amperage, or daily average pressure drop is below the operating limits established for a corresponding emission unit or group of similar emission units, you must then follow the corrective action procedures in paragraph (j) of this section. After January 28, 2022, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, if the daily average scrubber water flow rate or daily average fan amperage, is below the operating limits established for a corresponding emission unit or group of similar emission units, you must then follow the corrective action procedures in paragraph (j) of this section.

* * * * *

(h) * * *

(1) Maintaining the daily average secondary voltage and daily average scrubber water flow rate for each field at or above the minimum levels established during the initial or subsequent performance test. Maintaining the daily average stack outlet temperature at or below the maximum levels established during the initial or subsequent performance test.

* * * * *

(j) * * *

(1) You must initiate and complete initial corrective action within 10 calendar days and demonstrate that the initial corrective action was successful. During any period of corrective action, you must continue to monitor, and record all required operating parameters for equipment that remains in operation. After the initial corrective action, if the daily average operating parameter value for the emission unit or group of similar emission units meets the operating limit established for the corresponding unit or group, then the corrective action was successful and the emission unit or group of similar emission units is in compliance with the established operating limits.

(2) If the initial corrective action required in paragraph (j)(1) of this section was not successful, then you must complete additional corrective action within 10 calendar days and demonstrate that the subsequent corrective action was successful. During any period of corrective action, you must continue to monitor, and record all required operating parameters for equipment that remains in operation. If the daily average operating parameter value for the emission unit or group of similar emission units meets the operating limit established for the corresponding unit or group, then the corrective action was successful, and the emission unit or group of similar emission units is in compliance with the established operating limits.

* * * * *

■ 15. Section 63.9637 is revised to read as follows:

§ 63.9637 What other requirements must I meet to demonstrate continuous compliance?

(a) *Deviations.* You must report each instance in which you did not meet each emission limitation in Table 1 to this subpart that applies to you. You also must report each instance in which you did not meet the work practice standards in § 63.9591 and each instance in which you did not meet each operation and maintenance requirement in § 63.9600 that applies to you. These instances are deviations from the emission limitations, work practice standards, and operation and maintenance requirements in this subpart. These deviations must be reported in accordance with the requirements in § 63.9641.

(b) *Startups, shutdowns, and malfunctions.* For existing sources and for new or reconstructed sources which commenced construction or reconstruction on or before September 25, 2019, on or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, the exemptions for periods of startup, shutdown, and malfunction in § 63.6(e) no longer apply.

■ 16. Section 63.9640 is amended by revising paragraph (e)(2) to read as follows:

§ 63.9640 What notifications must I submit and when?

* * * * *

(e) * * *

(2) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each initial compliance demonstration that does include a performance test, you must submit the notification of compliance status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each initial compliance demonstration that does include a performance test, you must submit the notification of compliance status, including the performance test results, before the close of business on the 60th

calendar day following the completion of the performance test according to § 63.10(d)(2). If the performance test results have been submitted electronically in accordance with § 63.9641(f), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the notification of compliance status report in lieu of the performance test results. The performance test results must be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) by the date the notification of compliance status report is submitted.

■ 17. Section 63.9641 is amended by:

■ a. Revising paragraphs (a)(2) and (4), (b) introductory text, and (b)(2) through (4) and (7), (b)(8) introductory text, (b)(8)(ii) through (vii) and (ix), and (c); and

■ b. Adding paragraphs (f), (g), and (h).

The revisions and additions read as follows:

§ 63.9641 What reports must I submit and when?

(a) * * *

(2) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, the first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, the first compliance report must be electronically submitted, postmarked or delivered no later than July 31 or January 31, whichever date comes first after your first compliance report is due.

* * * * *

(4) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, each subsequent compliance report must be electronically submitted, postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

* * * * *

(b) *Compliance report contents.* Each compliance report must include the information in paragraphs (b)(1) through (8) of this section, as applicable.

* * * * *

(2) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, statement by a responsible official, with the official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, statement by a responsible official, with the official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report. If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces the requirement in this paragraph (b)(2).

(3) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, date of report and beginning and ending dates of the reporting period. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

(4) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). A startup, shutdown, and malfunction plan and the information in § 63.10(d)(5)(i) is not required after January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and is not required after July 28, 2020, for affected sources that commenced construction or reconstruction after September 25, 2019.

* * * * *

(7) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each deviation from an emission limitation in Table 1 to this subpart that occurs at an affected source where you are not using a continuous monitoring system (including a CPMS or COMS) to comply with an emission limitation in this subpart, the compliance report must contain the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(7)(i) and (ii) of this section. This includes periods of startup, shutdown, and malfunction. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each deviation from an emission limitation in Table 1 to this subpart that occurs at an affected source where you are not using a continuous monitoring system (including a CPMS or COMS) to comply with an emission limitation in this subpart, the compliance report must contain the information in paragraphs (b)(7)(i) and (ii) of this section.

(i) The total operating time in hours of each affected source during the reporting period.

(ii) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, information on the number, duration, and cause of deviation (including unknown cause) as applicable, and the corrective action taken. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, information on the affected sources or equipment, the emission limit deviated from, the start date, start time, duration in hours, and cause of each deviation (including unknown cause) as applicable, an estimate of the quantity in pounds of each regulated pollutant emitted over an emission limit and a description of the method used to estimate the emissions, and the corrective action taken.

(8) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including a CPMS or COMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(8)(i) through (xi) of this section. This includes periods of startup, shutdown, and malfunction. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including a CPMS or COMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (b)(1) through (4) of this section and the information in paragraphs (b)(8)(i) through (xi) of this section.

* * * * *

(ii) The start date, start time, and duration in hours (or minutes for COMS) that each continuous monitoring system was inoperative, except for zero (low-level) and high-level checks.

(iii) The start date, start time, and duration in hours (or minutes for COMS) that each continuous monitoring system was out-of-control, including the information in § 63.8(c)(8).

(iv) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, for each affected source or equipment, the date and time that each deviation started and stopped, the cause of the deviation, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, for each affected source or equipment, the date and time that each deviation started and stopped, the cause of the deviation, and whether each deviation occurred during a period of malfunction or during another period.

(v) The total duration in hours (or minutes for COMS) of all deviations for each Continuous Monitoring System (CMS) during the reporting period, the total operating time in hours of the affected source during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(vi) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, a breakdown of the total duration of the deviations during the reporting period including those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, a breakdown of the total duration in hours (or minutes for COMS) of the deviations during the reporting period including those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(vii) The total duration in hours (or minutes for COMS) of continuous monitoring system downtime for each continuous monitoring system during the reporting period, the total operating time in hours of the affected source during the reporting period, and the total duration of continuous monitoring system downtime as a percent of the total source operating time during the reporting period.

* * * * *

(ix) The monitoring equipment manufacturer and model number and the pollutant or parameter monitored.

* * * * *

(c) *Submitting compliance reports electronically.* Beginning on January 25, 2021, submit all subsequent compliance reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/SPPD/CORE CBI Office, Attention: Taconite Iron Ore Processing Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (c). All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data in not entitled to confidential treatment, and EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report according to the requirements in § 63.10(d)(5)(ii). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, an immediate startup, shutdown, and malfunction report is not required.

* * * * *

(f) *Performance tests.* After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI claim, submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (f)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data in not entitled to confidential treatment, and EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(g) *Claims of EPA system outage.* After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, if you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (g)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(h) *Claims of force majeure.* After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, if you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of *force majeure* for failure to timely comply with the reporting requirement. To assert a claim of *force majeure,* you must meet the requirements outlined in paragraphs (h)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

■ 18. Section 63.9642 is amended by revising paragraph (a) introductory text and (a)(2), adding paragraphs (a)(4) through (6), and revising paragraph (b)(3) to read as follows:

§ 63.9642 What records must I keep?

(a) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, you must keep the records listed in paragraphs (a)(1) through (3) of this section. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later,

for affected sources that commenced construction or reconstruction after September 25, 2019, you must keep the records listed in paragraphs (a)(1) through (6) of this section.

* * * * *

(2) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, a startup, shutdown, and malfunction plan is not required.

* * * * *

(4) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, the cause and duration of each failure.

(5) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(6) Record actions taken in accordance with the general duty requirements to minimize emissions in § 63.9600(a) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(b) * * *

(3) On or before January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, previous (that is, superseded) versions of the performance evaluation plan as required in § 63.8(d)(3). After January 25, 2021, for affected sources that commenced construction or reconstruction on or before September 25, 2019, and after July 28, 2020, or upon start-up, which ever date is later, for affected sources that commenced construction or reconstruction after September 25, 2019, previous (that is, superseded) versions of the performance evaluation plan as required in § 63.9632(b)(5), with the program of corrective action included in the plan required under § 63.8(d)(2).

* * * * *

■ 19. Section 63.9650 is revised to read as follows:

§ 63.9650 What parts of the General Provisions apply to me?

Table 2 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

■ 20. Section 63.9651 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.9651 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to state, local, or tribal agencies are specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 21. Section 63.9652 is amended by:

■ a. Removing the definition for "Conveyor belt transfer point".

■ b. Revising the definition for "Deviation".

■ c. Removing the definition for "Wet grinding and milling".

■ d. Adding in alphabetical order a definition for "Wet scrubber".

The revision and addition read as follows:

§ 63.9652 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including operating limits) or operation and maintenance requirement; or

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

Wet scrubber means an air pollution control device that removes particulate matter and acid gases from the waste gas stream of stationary sources. The pollutants are removed primarily through the impaction, diffusion, interception and/or absorption of the pollutant onto droplets of liquid. Wet scrubbers include venturi scrubbers, marble bed scrubbers, or impingement scrubbers. For purposes of this subpart, wet scrubbers do not include dynamic wet scrubbers.

■ 22. Table 2 to subpart RRRRR of part 63 is revised to read as follows:

As required in § 63.9650, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table:

TABLE 2 TO SUBPART RRRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRR OF PART 63

Citation	Subject	Applies to subpart RRRRR	Explanation
§ 63.1(a)(1)–(4)	Applicability	Yes.	
§ 63.1(a)(5)	[Reserved]	No.	
§ 63.1(a)(6)	Applicability	Yes.	
§ 63.1(a)(7)–(9)	[Reserved]	No.	
§ 63.1(a)(10)–(12)	Applicability	Yes.	
§ 63.1(b)(1)	Initial Applicability Determination	Yes.	
§ 63.1(b)(2)	[Reserved]	No.	
§ 63.1(b)(3)	Initial Applicability Determination	Yes.	
§ 63.1(c)(1)–(2)	Applicability After Standard Established, Permit Requirements.	Yes.	
§ 63.1(c)(3)–(4)	[Reserved]	No.	
§ 63.1(c)(5)	Area Source Becomes Major	Yes.	
§ 63.1(d)	[Reserved]	No.	
§ 63.1(e)	Equivalency of Permit Limits	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(2)	Prohibited Activities	Yes.	
§ 63.4(a)(3)–(5)	[Reserved]	No.	
§ 63.4(b)–(c)	Circumvention, Fragmentation	Yes.	

TABLE 2 TO SUBPART RRRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRR OF PART 63—Continued

Citation	Subject	Applies to subpart RRRRR	Explanation
§ 63.5(a)(1)–(2)	Construction/Reconstruction, Applicability.	Yes.	
§ 63.5(b)(1)	Construction/Reconstruction, Applicability.	Yes.	
§ 63.5(b)(2)	[Reserved]	No.	
§ 63.5(b)(3)–(4)	Construction/Reconstruction, Applicability.	Yes.	
§ 63.5(b)(5)	[Reserved]	No.	
§ 63.5(b)(6)	Applicability	Yes.	
§ 63.5(c)	[Reserved]	No.	
§ 63.5(d)(1)–(4)	Application for Approval of Construction or Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction or Reconstruction.	Yes.	
§ 63.5(f)	Approval Based on State Review	Yes.	
§ 63.6(a)	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(b)(1)–(5)	Compliance Dates for New/Reconstructed Sources.	Yes.	
§ 63.6(b)(6)	[Reserved]	No.	
§ 63.6(b)(7)	Compliance Dates for New/Reconstructed Sources.	Yes.	
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Yes.	
§ 63.6(c)(3)–(4)	[Reserved]	No.	
§ 63.6(c)(5)	Compliance Dates for Existing Sources	Yes.	
§ 63.6(d)	[Reserved]	No.	
§ 63.6(e)(1)(i)	Operation and Maintenance Requirements—General Duty to Minimize Emissions.	Yes, on or before the compliance date specified in § 63.9600(a). No, after the compliance date specified in § 63.9600(a).	See § 63.9600(a) for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance Requirements—Requirement to Correct Malfunction as Soon as Possible.	No.	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements—Enforceability.	Yes.	
§ 63.6(e)(2)	[Reserved]	No.	
§ 63.6(e)(3)	Startup, Shutdown, Malfunction (SSM) Plan.	Yes, on or before the compliance date specified in § 63.9610(c). No, after the compliance date specified in § 63.9610(c).	
§ 63.6(f)(1)	SSM Exemption	No	See § 63.9600(a).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Alternative Nonopacity Standard	Yes.	
§ 63.6(h), except (h)(1).	Compliance with Opacity and Visible Emission (VE) Standards.	No	Opacity limits in subpart RRRRR are established as part of performance testing in order to set operating limits for ESPs.
§ 63.6(h)(1)	Compliance except during SSM	No	See § 63.9600(a).
§ 63.6(i)(1)–(14)	Extension of Compliance	Yes.	
§ 63.6(i)(15)	[Reserved]	No.	
§ 63.6(i)(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates.	No	Subpart RRRRR specifies performance test applicability and dates.
§ 63.7(a)(3)–(4)	Performance Testing Requirements	Yes.	
§ 63.7(b)	Notification	Yes.	
§ 63.7(c)	Quality Assurance/Test Plan	Yes.	
§ 63.7(d)	Testing Facilities	Yes.	
§ 63.7(e)(1)	Conduct of Performance Tests	No	See § 63.9621.
§ 63.7(e)(2)–(4)	Conduct of Performance Tests	Yes.	
§ 63.7(f)	Alternative Test Method	Yes.	
§ 63.7(g)	Data Analysis	Yes	Except this subpart specifies how and when the performance test results are reported.
§ 63.7(h)	Waiver of Tests	Yes.	
§ 63.8(a)(1)–(2)	Monitoring Requirements	Yes.	
§ 63.8(a)(3)	[Reserved]	No.	
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Subpart RRRRR does not require flares.
§ 63.8(b)(1)–(3)	Conduct of Monitoring	Yes.	

TABLE 2 TO SUBPART RRRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRR OF PART 63—Continued

Citation	Subject	Applies to subpart RRRRR	Explanation
§ 63.8(c)(1)(i)	Operation and Maintenance of CMS	Yes, on or before the compliance date specified in § 63.9632(b)(4). No, after the compliance date specified in § 63.9632(b)(4).	See § 63.9632 for operation and maintenance requirements for monitoring. See § 63.9600(a) for general duty requirement.
§ 63.8(c)(1)(ii)	Spare parts for CMS Equipment	Yes.	
§ 63.8(c)(1)(iii)	SSM Plan for CMS	Yes, on or before the compliance date specified in § 63.9632(b)(4). No, after the compliance date specified in § 63.9632(b)(4).	
§ 63.8(c)(2)–(3)	CMS Operation/Maintenance	Yes.	
§ 63.8(c)(4)	Frequency of Operation for CMS	No	Subpart RRRRR specifies requirements for operation of CMS.
§ 63.8(c)(5)–(8)	CMS Requirements	Yes	CMS requirements in § 63.8(c)(5) and (6) apply only to COMS for dry electrostatic precipitators.
§ 63.8(d)(1)–(2)	Monitoring Quality Control	Yes.	
§ 63.8(d)(3)	Monitoring Quality Control	No	See § 63.9632(b)(5).
§ 63.8(e)	Performance Evaluation of CMS	Yes.	
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Relative Accuracy Test Alternative (RATA).	No	Subpart RRRRR does not require continuous emission monitoring systems.
§ 63.8(g)(1)–(4)	Data Reduction	Yes.	
§ 63.8(g)(5)	Data That Cannot Be Used	No	Subpart RRRRR specifies data reduction requirements.
§ 63.9	Notification Requirements	Yes	Additional notifications for CMS in § 63.9(g) apply to COMS for dry electrostatic precipitators.
§ 63.10(a)	Recordkeeping and Reporting, Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes.	
§ 63.10(b)(2)(i)	Records of SSM	No	See § 63.9642 for recordkeeping when there is a deviation from a standard.
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet Standard.	No	See § 63.9642 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes.	
§ 63.10(b)(2)(iv)	Actions Taken to Minimize Emissions During SSM.	No.	
§ 63.10(b)(2)(v)	Actions Taken to Minimize Emissions During SSM.	No.	
§ 63.10(b)(2)(vi)	Recordkeeping for CMS Malfunctions	Yes.	
§ 63.10(b)(2)(vii)–(xii).	Recordkeeping for CMS	Yes.	
§ 63.10(b)(2)(xiii)	Records for Relative Accuracy Test	No	Subpart RRRRR does not require continuous emission monitoring systems.
§ 63.10(b)(2)(xiv)	Records for Notification	Yes.	
§ 63.10(b)(3)	Applicability Determinations	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart RRRRR specifies recordkeeping requirements.
§ 63.10(c)(9)	[Reserved]	No.	
§ 63.10(c)(10)–(14)	CMS Recordkeeping	Yes.	
§ 63.10(c)(15)	Use of SSM Plan	No.	
§ 63.10(d)(1)–(2)	General Reporting Requirements	Yes	Except this subpart specifies how and when the performance test results are reported.
§ 63.10(d)(3)	Reporting opacity or VE observations	No	Subpart RRRRR does not have opacity and VE standards that require the use of EPA Method 9 of appendix A–4 to 40 CFR part 60 or EPA Method 22 of appendix A–7 to 40 CFR part 60.

TABLE 2 TO SUBPART RRRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRR OF PART 63—Continued

Citation	Subject	Applies to subpart RRRRR	Explanation
§ 63.10(d)(5)	SSM Reports	Yes, on or before the compliance date specified in § 63.9641(b)(4). No, after the compliance date specified in § 63.9641(b)(4).	See § 63.9641 for malfunction reporting requirements.
§ 63.10(e)	Additional Reporting Requirements	Yes, except a breakdown of the total duration of excess emissions due to startup/shutdown in 63.10(e)(3)(vi)(I) is not required and when the summary report is submitted through CEDRI, the report is not required to be titled "Summary Report-Gaseous and Opacity Excess Emission and Continuous Monitoring System Performance.".	The electronic reporting template combines the information from the summary report and excess emission report with the Subpart RRRRR compliance report.
§ 63.10(f)	Waiver of Recordkeeping or Reporting Requirements.	Yes.	
§ 63.11	Control Device and Work Practice Requirements.	No	Subpart RRRRR does not require flares.
§ 63.12(a)–(c)	State Authority and Delegations	Yes.	
§ 63.13(a)–(c)	State/Regional Addresses	Yes.	
§ 63.14(a)–(t)	Incorporations by Reference	Yes.	
§ 63.15(a)–(b)	Availability of Information and Confidentiality.	Yes.	
§ 63.16	Performance Track Provisions	Yes.	

[FR Doc. 2020–13397 Filed 7–27–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 60, 61, and 63

[EPA–HQ–OAR–2018–0815; FRL–10012–11–OAR]

RIN 2060–AU39

Test Methods and Performance Specifications for Air Emission Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action corrects and updates regulations for source testing of emissions. These revisions include corrections to inaccurate testing provisions, updates to outdated procedures, and approved alternative procedures that will provide flexibility to testers. These revisions will improve the quality of data and will not impose any new substantive requirements on source owners or operators.

DATES: The final rule is effective on December 7, 2020. The incorporation by reference of certain materials listed in the rule is approved by the Director of the Federal Register as of December 7, 2020]. The incorporation by reference of certain other materials listed in the rule was approved by the Director of the Federal Register as of July 6, 2006.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0815. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Lula H. Melton, Office of Air Quality Planning and Standards, Air Quality Assessment Division (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2910; fax number: (919) 541–0516; email address: *melton.lula@epa.gov*.

SUPPLEMENTARY INFORMATION:

The supplementary information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

The revisions promulgated in this final rule apply to industries that are subject to the current provisions of 40 Code of Federal Regulations (CFR) parts 51, 60, 61, and 63. We did not list all of the specific affected industries or their North American Industry Classification System (NAICS) codes herein since there are many affected sources in numerous NAICS categories. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. What action is the Agency taking?

We are promulgating corrections and updates to regulations for source testing of emissions. More specifically, we are correcting typographical and technical errors, updating testing procedures, and adding alternative equipment and methods the Agency has deemed acceptable to use.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 7, 2020. Under section 307(d)(7)(B) of the CAA, only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements that are the

pollutant measurement using the Equation 9–2 in section 12.3. Each error shall be less than or equal to 10 percent of the cylinder gas certified value. Report the audit results including the average measured concentration, the error and the certified cylinder concentration of each pollutant as part of the reporting requirements in the appropriate regulation or permit.

* * * * *

Performance Specification 18—Performance Specifications and Test Procedures for Gaseous Hydrogen Chloride (HCl) Continuous Emission Monitoring Systems at Stationary Sources

* * * * *

2.3 The relative accuracy (RA) must be established against a reference method (RM) (*e.g.,* Method 26A, Method 320, ASTM International (ASTM) D6348–12, including mandatory annexes, or Method 321 for Portland cement plants as specified by the applicable regulation or, if not specified, as appropriate for the source concentration and category). Method 26 may be approved as a RM by the Administrator on a case-by-case basis if not otherwise allowed or denied in an applicable regulation.

* * * * *

11.9.1 Unless otherwise specified in an applicable regulation, use Method 26A in 40 CFR part 60, appendix A–8, Method 320 in 40 CFR part 63, appendix A, or ASTM D6348–12 including all annexes, as applicable, as the RMs for HCl measurement. Obtain and analyze RM audit samples, if they are available, concurrently with RM test samples according to the same procedure specified for performance tests in the general provisions of the applicable part. If Method 26 is not specified in an applicable subpart of the regulations, you may request approval to use Method 26 in appendix A–8 to this part as the RM on a site-specific basis under §§ 63.7(f) or 60.8(b). Other RMs for moisture, O_2, etc., may be necessary. Conduct the RM tests in such a way that they will yield results representative of the emissions from the source and can be compared to the CEMS data.

* * * * *

■ 28. Amend Appendix F to part 60, in Procedure 1, by revising section 5.2.3(2) to read as follows:

Appendix F to Part 60—Quality Assurance Procedures

Procedure 1—Quality Assurance Requirements for Gas Continuous Emission Monitoring Systems Used for Compliance Determination

* * * * *

5.2.3 * * *

(2) For the CGA, ±15 percent of the average audit value or ±5 ppm, whichever is greater; for diluent monitors, ±15 percent of the average audit value.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

■ 29. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 30. Amend Appendix B to part 61 by:

■ a. Adding the entries Method 114—Test Methods for Measuring Radionuclide Emissions from Stationary Sources and Method 115—Monitoring for Radon-222 Emissions at the end of the index for appendix B to part 61.

■ b. In Method 107, revising section 12.3, equation 107–3.

The additions and revisions read as follows:

Appendix B to Part 61—Test Methods

* * * * *

Method 114—Test Methods for Measuring Radionuclide Emissions From Stationary Sources

Method 115—Monitoring for Radon-222 Emissions

* * * * *

Method 107—Determination of Vinyl Chloride Content of In-Process Wastewater Samples, and Vinyl Chloride Content of Polyvinyl Chloride Resin Slurry, Wet Cake, and Latex Samples

* * * * *

12.3 * * *

$$C_{rvc} = \frac{A_s P_a}{R_f T_1}\left[\frac{M_v V_g}{Rm} + K_p(TS)T_2 + K_w(1-TS)T_2\right] \qquad Eq.\ 107-3$$

* * * * *

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

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

Authority: 42 U.S.C. 7401 *et seq.*

■ 32. Amend § 63.2 by revising the definition of "Alternative test method" to read as follows:

§ 63.2 Definitions.

* * * * *

Alternative test method means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Administrator's satisfaction, using Method 301 in appendix A of this part, to produce results adequate for the Administrator's determination that it may be used in place of a test method specified in this part.

* * * * *

Subpart LLL—National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry

■ 33. Amend § 63.1349, by revising paragraphs (b)(7)(viii)(A) and (B), (b)(8)(vi), and (b)(8)(vii)(B) and (C) to read as follows:

§ 63.1349 Performance testing requirements.

* * * * *

(b) * * *

(7) * * *

(viii) * * *

(A) Determine the THC CEMS average value in ppmvw, and the average of your corresponding three total organic HAP compliance test runs, using Equation 12.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} y_i \qquad (Eq.\ 12)$$

Where:

$\bar{x}$ = The average THC CEMS value in ppmvw, as propane.

X_i = The THC CEMS data points in ppmvw, as propane, for all three test runs.

$\bar{y}$ = The average organic HAP value in ppmvd, corrected to 7 percent oxygen.

Y_i = The organic HAP concentrations in ppmvd, corrected to 7 percent oxygen, for all three test runs.

n = The number of data points.

(B) You must use your 3-run average THC CEMS value and your 3-run average organic HAP concentration from your Method 18 and/or Method 320 compliance tests to determine the operating limit. Use equation 13 to determine your operating limit in units of ppmvw THC, as propane.

$$T_l = \left(\frac{9}{\bar{y}}\right) * \bar{x} \quad \text{(Eq. 13)}$$

Where:

T_l = The 30-day operating limit for your THC CEMS, ppmvw, as propane.

$\bar{y}$ = The average organic HAP concentration from Eq. 12, ppmvd, corrected to 7 percent oxygen.

$\bar{x}$ = The average THC CEMS concentration from Eq. 12, ppmvw, as propane.

9 = 75 percent of the organic HAP emissions limit (12 ppmvd, corrected to 7 percent oxygen)

* * * * *

(8) * * *

(vi) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time that the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the SO_2 levels measured during raw mill on and raw mill off compliance testing with Equation 17.

$$R = (y * t) + x * (1 - t) \quad \text{(Eq. 17)}$$

Where:

R = Operating limit as SO_2, ppmv.

y = Average SO_2 CEMS value during mill on operations, ppmv.

t = Percentage of operating time with mill on, expressed as a decimal.

x = Average SO_2 CEMS value during mill off operations, ppmv.

1 − t = Percentage of operating time with mill off, expressed as a decimal.

* * * * *

(vii) * * *

(B) Determine your SO_2 CEMS instrument average ppmv, and the average of your corresponding three HCl compliance test runs, using Equation 18.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_i, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_i \quad \text{(Eq. 18)}$$

Where:

$\bar{x}$ = The average SO_2 CEMS value in ppmv.

X_1 = The SO_2 CEMS data points in ppmv for the three runs constituting the performance test.

$\bar{y}$ = The average HCl value in ppmvd, corrected to 7 percent oxygen.

Y_1 = The HCl emission concentration expressed as ppmvd, corrected to 7 percent oxygen for the threeruns constituting the performance test.

n = The number of data points.

(C) With your instrument zero expressed in ppmv, your SO_2 CEMS three run average expressed in ppmv, and your 3-run HCl compliance test average in ppmvd, corrected to 7 percent O_2, determine a relationship of ppmvd HCl corrected to 7 percent O_2 per ppmv SO_2 with Equation 19.

$$R = \frac{\bar{y}}{(\bar{x} - z)} \quad \text{(Eq. 19)}$$

Where:

R = The relative HCl ppmvd, corrected to 7 percent oxygen, per ppmv SO_2 for your SO_2 CEMS.

$\bar{y}$ = The average HCl concentration from Eq. 18 in ppmvd, corrected to 7 percent oxygen.

$\bar{x}$ = The average SO_2 CEMS value from Eq. 18 in ppmv.

z = The instrument zero output ppmv value.

* * * * *

■ 34. Amend Appendix A to part 63 by:

■ a. In Method 301, revising section 11.1.3;

■ b. In Method 308, revising section 12.4, equation 308–3 and section 12.5, equation 308–5;

■ c. In Method 311, revising sections 1.1 and 17;

■ d. In Method 315, revising Figure 315–1;

■ e. In Method 316, revising section 1.0; and

■ f. In Method 323, revising the method heading and section 2.0.

The revisions read as follows:

Appendix A to Part 63—Test Methods Pollutant Measurement Methods From Various Waste Media

* * * * *

Method 301—Field Validation of Pollutant Measurement Methods From Various Waste Media

* * * * *

11.1.3 *T Test.* Calculate the t-statistic using Equation 301–13.

$$t = \frac{|d_m|}{\left(\frac{SD_d}{\sqrt{n}}\right)} \quad \text{(Eq. 301-13)}$$

* * *

* * * * *

Method 308—Procedure for Determination of Methanol Emission From Stationary Sources

* * * * *

12.4 * * *

$$E = \frac{M_{tot}\, Q_{std}}{V_{m\,(std)}} \qquad \text{Equation 308-3}$$

12.5 * * *

$$R = \frac{m_v\, v_s}{s} \qquad \text{Equation 308-5}$$

* * * * *

Method 311—Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection Into a Gas Chromatograph

* * * * *

1.1 Applicability. This method is applicable for determination of most compounds designated by the U.S. Environmental Protection Agency as volatile hazardous air pollutants (HAP's) (See Reference 1) that are contained in paints and coatings. Styrene, ethyl acrylate, and methyl methacrylate can be measured by ASTM D 4827–03. Formaldehyde can be measured by ASTM D 5910–05 or ASTM D 1979–91. Toluene diisocyanate can be measured in urethane prepolymers by ASTM D 3432–89. Method 311 applies only to those volatile HAP's which are added to the coating when it is manufactured, not to those that may form as the coating cures (reaction products or cure volatiles). A separate or modified test procedure must be used to measure these reaction products or cure volatiles in order to determine the total volatile HAP emissions from a coating. Cure volatiles are a significant component of the total HAP content of some coatings. The term "coating" used in this method shall be understood to mean paints and coatings.

* * * * *

17. * * *

4. Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph. ASTM Designation D4457–02.

5. Standard Test Method for Determining the Unreacted Monomer Content of Latexes Using Capillary Column Gas Chromatography. ASTM Designation D4827–03.

6. Standard Test Method for Determining Unreacted Monomer Content of Latexes Using Gas-Liquid Chromatography, ASTM Designation D4747–02.

* * * * *

Method 315—Determination of Particulate and Methylene Chloride Extractable Matter (MCEM) From Selected Sources at Primary Aluminum Production Facilities

* * * * *

BILLING CODE 6560–50–P

Figure 315-1. Particulate and MCEM Analyses

Particulate Analysis			
Plant			
Date			
Run No.			
Filter No.			
Amount liquid lost during transport			
Acetone blank volume (ml)			
Acetone blank concentration (Eq. 315-4) (mg/mg)			
Acetone wash blank (Eq. 315-5) (mg)			
	Final weight (mg)	**Tare weight (mg)**	**Weight gain (mg)**
Container No. 1			
Container No. 2			
Total			
Less Acetone blank			
Weight of particulate matter			
	Final volume (mg)	Initial volume (mg)	Liquid collected (mg)
Moisture Analysis			
Impingers	Note 1	Note 1	
Silica gel			
Total			
NOTE 1: Convert volume of water to weight by multiplying by the density of water (1 g/ml).			

Container No.	**Final weight (mg)**	**Tare of aluminum dish (mg)**	**Weight gain**	**Acetone wash volume (ml)**	**Methylene chloride wash volume (ml)**
MCEM Analysis					
1					
2 + 2M					
3W					

3S					
Total			Σm_{total}	$0 V_{aw}$	ΣV_{tw}
Less acetone wash blank (mg) (not to exceed 1 mg/l of acetone used)				$w_a = c_a p_a \Sigma V_{aw}$	
Less methylene chloride wash blank (mg) (not to exceed 1.5 mg/l of methylene chloride used)				$w_t = c_t p_t \Sigma V_{tw}$	
Less filter blank (mg) (not to exceed 0.5 mg/filter)				F_b	
MCEM weight (mg)				$m_{MCEOM} = \Sigma m_{total} - w_a - w_t - f_b$	

Method 316—Sampling and Analysis for Formaldehyde Emissions From Stationary Sources in the Mineral Wool and Wool Fiberglass Industries

1.0 *Scope and Application*

This method is applicable to the determination of formaldehyde, CAS Registry number 50–00–0, from stationary sources in the mineral wool and wool fiber glass industries. High purity water is used to collect the formaldehyde. The formaldehyde concentrations in the stack samples are determined using the modified pararosaniline method. Formaldehyde can be detected as low as 8.8×10^{-10} lbs/cu ft (11.3 ppbv) or as high as 1.8×10^{-3} lbs/cu ft (23,000,000 ppbv), at standard conditions over a 1-hour sampling period, sampling approximately 30 cu ft.

* * * * *

Method 323—Measurement of Formaldehyde Emissions From Natural Gas-Fired Stationary Sources—Acetyl Acetone Derivatization Method

* * * * *

2.0 Summary of Method. An emission sample from the combustion exhaust is drawn through a midget impinger train containing chilled reagent water to absorb formaldehyde. The formaldehyde concentration in the impinger is determined by reaction with acetyl acetone to form a colored derivative which is measured colorimetrically.

* * * * *

[FR Doc. 2020–18824 Filed 10–6–20; 8:45 am]

BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0815; FRL 10016–14–OAR]

RIN 2060–AU39

Test Methods and Performance Specifications for Air Emission Sources; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that was published in the **Federal Register** on October 7, 2020, and will be effective on December 7, 2020. The final rule corrected and updated regulations for source testing of emissions. This correction does not change any final action taken by the EPA on October 7, 2020; this action merely provides further clarification on the amendatory instructions for Method 311.

DATES: The final rule is effective on December 7, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0815. All documents in the docket are listed at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Lula H. Melton, Office of Air Quality Planning and Standards, Air Quality Assessment Division (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2910; fax number: (919) 541–0516; email address: *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION: In FR doc 2020–18824 at 85 FR 63394 in the issue of October 7, 2020, the following correction to an amendatory instruction to "Appendix A to Part 63" is made.

On page 63419, in the second column, amendatory instruction 34.c is corrected to read: "c. In Method 311, revising sections 1.1 and 17.4 through 17.6;"

Anne Austin,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2020–23690 Filed 12–1–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[EPA–HQ–OLEM–2019–0085, EPA–HQ–OLEM–2019–0086, EPA–HQ–OLEM–2019–0087, FRL–10017–87–OLEM]

RIN 2050–AH03

Financial Responsibility Requirements Under CERCLA Section 108(b) for Facilities in the Electric Power Generation, Transmission, and Distribution Industry; the Petroleum and Coal Products Manufacturing Industry; and the Chemical Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final actions.

SUMMARY: EPA (or the Agency) is finalizing its proposed decisions to not impose financial responsibility requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for facilities in three industry sectors: The electric power generation, transmission, and distribution industry, pursuant to EPA's proposal of July 29, 2019; the petroleum and coal products manufacturing industry, pursuant to EPA's proposal of December 23, 2019; and the chemical manufacturing industry, pursuant to EPA's proposal of February 21, 2020. Today's final rulemakings are based on the individual administrative records for each of the three proposed rulemakings, supported by additional analysis conducted in consideration of comments received in the public comment period for each proposed rule. In particular, after examining the existing environmental protections and regulations in place today and analyzing the Superfund program's experience cleaning up sites in each industry, the Agency concluded that facilities in these three industries operating under a modern regulatory framework do not present a level of risk that warrants financial responsibility requirements under CERCLA section 108(b). Today's final rulemakings are based on the record for these rulemakings, and do not affect EPA's authority to take a response or enforcement action under CERCLA with respect to any particular facility or industry, and do not affect the Agency's authorities that may apply to particular facilities under other environmental statutes. This combined final rulemaking comprises the Agency's final actions on each of the three proposed rules.

DATES: These final actions are effective on January 4, 2021.

ADDRESSES: EPA has established a docket for these actions under Docket ID No. EPA–HQ–OLEM–2019–0085, EPA–HQ–OLEM–2019–0086, and EPA–HQ–OLEM–2019–0087. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For more information on this document, contact Charlotte Mooney, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Mail Code 5303P, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (703) 308–7025 or (email) *mooney.charlotte@epa.gov.*

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