WEST VIRGINIA
SECRETARY OF STATE
Betty Ireland
ADMINISTRATIVE LAW DIVISION

Form #1

Do Not Mark In This Box

2008 JUL -9 P 1:57

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WV Department of Environmental Protection, Division of Air Quality TITLE NUMBER: 45

RULE TYPE: Legislative CITE AUTHORITY: _____

AMENDMENT TO AN EXISTING RULE: YES [X] NO [ ]

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR34

TITLE OF RULE BEING AMENDED: Emission Standards for Hazardous Air Pollutants

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: Monday, August 11, 2008 TIME: 6:00 p.m.

LOCATION OF PUBLIC HEARING: WV Department of Environmental Protection
Coopers Rock Conference Room
601 57th Street, S.E.
Charleston, WV 25304

COMMENTS LIMITED TO: ORAL [ ] WRITTEN [ ] BOTH [X]

DATE WRITTEN COMMENT PERIOD ENDS: Monday, August 11, 2008 TIME: At close of hearing

WRITTEN COMMENTS MAY BE MAILED TO:
Kathy Cosco, Public Information Office
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Authorized Signature

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

BRIEFING DOCUMENT

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants"

A. AUTHORITY: W.Va. Code §22-5-4

B. SUMMARY OF RULE:

This rule establishes and adopts national emission standards for hazardous air pollutants (NESHAP) and other regulatory requirements promulgated by the United States Environmental Protection Agency (U.S. EPA) pursuant to Section 112 of the federal Clean Air Act, as amended (CAA). This rule codifies general procedures and criteria to implement emission standards for stationary sources that emit, or have the potential to emit, one or more of the hazardous air pollutants set forth in Section 112(b) of the CAA, or one or more of the eight substances listed as hazardous air pollutants in 40 CFR §61.01(a). The rule incorporates by reference the NESHAP standards of 40 CFR Parts 61, 63 and 40 CFR Part 65 (Consolidated Federal Air Rule), to the extent referenced in 40 CFR Parts 61 and 63, promulgated as of July 1, 2008. The rule also adopts associated appendices, reference methods, performance specifications and other test methods which are appended to these standards and contained in 40 CFR Parts 61 and 63. Any person who constructs, reconstructs, modifies or operates any source subject to the provisions of 40 CFR Parts 61 or 63 must comply with the applicable NESHAPS and this rule.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

As provided in 40 CFR §§61.04(b) and 63.12(b)(1), and because West Virginia has an approved Title V permit program, the Secretary therefore has the authority to implement and enforce national emission standards for hazardous air pollutants for stationary sources required to obtain a Title V permit under 40 CFR Parts 61 and 63, pursuant to Section 112 of the CAA. Promulgation of this rule is necessary for the State to fulfill its responsibilities under the CAA, and will enable the Department of Environmental Protection to continue to be the primary enforcement authority for NESHAP promulgated by U.S. EPA under 40 CFR Parts 61 and 63 as of July 1, 2008. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the CAA. Revisions to the rule include deletion of repealed provision language, general annual incorporation by reference updates, updated exclusions to adoption of standards, and general language clarification and correction.

The revised rule incorporates by reference the following source categories of new or revised NESHAP standards promulgated as of July 1, 2008: Reciprocating Internal Combustion Engines; Iron and Steel Foundries; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; Hazardous Waste Combustors; Organic Liquids Distribution (Non-Gasoline); Plywood and Composite Wood Products; Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry and Equipment Leaks of VOC in Petroleum Refineries.

The following source categories of newly promulgated NESHAPS affecting non-major (area) sources of hazardous air pollutants are being excluded from incorporation by reference, as many states (including West Virginia) are not accepting delegation of new federal standards, because they create a resource issue via unfunded mandate: Stationary Reciprocating Internal Combustion Engines; Paint Stripping and Miscellaneous Surface Coating Operations; Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities; Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving; Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing; Electric Arc Furnace Steelmaking Facilities; Hospital Ethylene Oxide Sterilizers; Iron and Steel Foundries; and Plating and Polishing Operations.

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

A federal counterpart to this proposed rule exists. In accordance with the Secretary's recommendation, and with stated exception, the Division of Air Quality proposes that the rule incorporate by reference the federal counterparts. Because the proposed rule incorporates by reference the federal counterpart, no determination of stringency is required.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with W.Va. Code §§22-1A-1 and 3(c), the Secretary has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:

At its June 24, 2008 meeting, the Environmental Protection Advisory Council reviewed and discussed this rule. (See attached minutes for Council's discussion).

West Virginia Department of Environmental Protection

ADVISORY COUNCIL MEETING MINUTES
Tuesday, June 24, 2008
601 57th Street, SE, Charleston, WV
West Virginia Room – 3rd Floor

IN ATTENDANCE:

Members of the Council:

Jackie Hallinan
Karen Price
Bill Raney
Rick Roberts

DEP:

Randy Huffman	Cabinet Secretary
Lisa McClung	Deputy Cabinet Secretary and Director, Division of Water and Waste Management
Raymond Franks II	General Counsel
Karen Watson	Associate General Counsel
Kathy Cosco	Communications Director
Pam Nixon	Environmental Advocate
Ken Politan	Mining & Reclamation
Lewis Halstead	Mining & Reclamation
Charlie Sturey	Mining & Reclamation
Carroll Cather	Water & Waste Management
Don Martin	Land Restoration
Brian Long	Water & Waste Management
Dan Arnold	Water & Waste Management
Mike Zeto	Environmental Enforcement
Terrie Sangid	Water & Waste Management
Jim Mason	Air Quality
Mike Johnson	Water & Waste Management
Kathy Emery	Water & Waste Management
Scott Mandirola	Water & Waste Management

Visitors:

Tom Boggs	Chamber of Commerce
Don Garvin	WV Environmental Council
Ruth Lemmon	WV Auto/Truck Dealers Association

OLD BUSINESS:

Secretary Huffman called the meeting to order at 1:35 p.m., and he announced that Members Lisa Dooley and Larry Harris would not be attending. On motion made by Mr. Raney and seconded by Ms. Hallinan, the Council approved the minutes from the March 18, 2008 meeting. Secretary Huffman then ceded the floor to Mr. Franks.

NEW BUSINESS:

Mr. Franks noted that for the 2009 regular legislative session, DEP was proposing changes to 20 rules, grouped by Division for presentation to the Council. Depending on who had shepherded the rule through its initial drafting, either Mr. Franks or Ms. Watson would lead the discussion, with program administrators available to assist in answering the Council's questions.

Ms. Watson presented 60 CSR 3, the "Brownfields" Rule. Ms. Watson explained that the Rule was currently pending before the Secretary of State for authorization as an emergency rule, and that the proposed changes included adjustments to the "de minimis" table and enhancing DEP's flexibility in obtaining risk assessments.

Ms. Price referred to a letter recently sent to DEP seeking clarification of the Rule's provisions concerning land use covenants and long-term maintenance agreements. Secretary Huffman stated that the letter would be retrieved and the issue noted for further consideration by the agency.

Mr. Raney inquired whether the Council could recommend changes to the rules as presented. Ms. Watson responded in the affirmative. Mr. Raney then asked whether written comments, such as those submitted by Mr. Harris prior to the meeting, would be appended to the minutes. Mr. Franks responded in the negative, and Ms. Watson expounded that Mr. Harris's comments would be summarized and addressed orally during the discussion of the particular rules involved.

Mr. Franks then presented 38 CSR 2, the Surface Mining Reclamation Rule. Mr. Franks explained that the proposed changes would expand the Secretary's oversight of "approved persons" authorized to render technical certifications contained within mining permit applications, and would clarify certain collateral activities as being within the scope of requests for incidental boundary revisions to existing permits. Mr. Franks also noted that the proposed Rule would set forth more relevant and exacting criteria for the Secretary to consider in evaluating applications for revisions.

Mr. Raney inquired generally about the provisions with respect to approved persons. Secretary Huffman replied that the increased oversight is necessary to improve the initial quality of the permit applications, such that the delays occasioned by subsequent corrections would be reduced or eliminated. Mr. Raney asked whether approved persons could include anyone other than engineers, and Mr. Halstead responded that the definition extended to surveyors and geologists. Mr. Raney noted the need to establish a procedure for suspension or revocation to limit the agency's unfettered discretion, to which Secretary Huffman and Mr. Franks replied that the Rule provided for notice and hearing prior to curtailing the privileges of anyone on the approved-person list.

Ms. Watson presented 47 CSR 30, establishing NPDES requirements for coal mining facilities. Ms. Watson explained that the proposed changes were relatively minor, designed to enhance consistency with the non-coal rule, to allow for digital signatures, and to permit correction of clerical errors.

The Council then considered the Air Quality rules. Mr. Franks presented 45 CSR 1 and 45 CSR 26, relating to control and reduction of nitrogen oxides from, respectively, non-electric and electric generating units, the latter by means of a budget trading program. The rules are to be repealed in their entireties, and Mr. Mason explained that both are being subsumed within the Clean Air Interstate Rule program.

Mr. Franks then presented 45 CSR 8, the Ambient Air Quality Rule. Mr. Franks explained that the 1-hour primary and secondary ozone standards were being replaced with 8-hour standards, with the maximum tolerance being reduced slightly. Mr. Raney inquired as to the practical effect of the proposed change, particularly with regard to whether non-compliance areas within the State might be expanded. Mr. Mason replied that an expansion might occur, but that it was difficult to predict at this early stage. Mr. Mason added that the time-period increase would inevitably lead to more accurate measurements.

Ms. Watson presented 45 CSR 13, governing permits for constructing and modifying non-major stationary sources of air pollutants. Ms. Watson explained that the Rule was being amended to reflect the recent statutory changes reducing the lag time for issuing permits and authorizing certain pre-permit construction. It was noted that Mr. Harris had submitted in writing his concern that courts would be loath to enforce agency cease-and-desist orders based on defects discovered during the permitting process after construction had already begun. Ms. Watson pointed out that the statute had been carefully crafted to avoid facile invocation of detrimental reliance, with Mr. Franks observing that the Rule strove to conform to the statute. Ms. Price wondered whether one or more of the timeframe provisions included within the existing Rule had been inadvertently omitted from the proposed version. Ms. Watson responded that the Rule had been carefully checked for completeness, but that she would once again verify the language to assure its accuracy.

Mr. Franks presented 45 CSR 14, governing permits for constructing and significantly modifying major stationary sources of air pollutants. Mr. Franks explained that references to pollution control projects and clean units were deleted in accordance with a federal appellate court decision vacating those provisions.

Mr. Franks went on to present 45 CSR 16, 45 CSR 25, and 45 CSR 34, relating respectively to performance standards for new stationary sources, pollution from hazardous waste treatment, storage, and disposal facilities, and emission standards for hazardous air pollutants. Mr. Mason noted that the changes incorporate revisions to the Rules' federal counterparts, except that some of the new standards were not incorporated within 45 CSR 34, because they constituted unfunded mandates. Mr. Garvin was recognized, and he asked whether the failure to incorporate equated to a lack of regulation. Mr. Mason responded in the negative, explaining that the monitoring and regulation would be performed by the federal government. Mr. Garvin inquired as to the affected industries, and Mr. Mason referred to a list including smaller gas facilities and paint-stripping shops.

Ms. Watson presented 45 CSR 37, detailing the budget trading program to reduce mercury emissions. Ms. Watson explained that the rule is being repealed as inconsistent with a federal appellate court decision, pending alternative action by the EPA. Mr. Garvin inquired whether the Rule repealed two years ago would be reinstated upon revocation of the current version, to which Ms. Watson and Mr. Franks replied that it would not, if there had indeed been a previous rule in place, which was somewhat in question. Mr. Mason explained that mercury emissions would be monitored and regulated as usual, except that budget trading would not be available as a method of reduction. He also stated that there have been discussions on a national level as to whether to reinstate the federal mercury monitoring requirements.

The Council then turned its attention to the Water and Waste Management Rules. Ms. Watson presented 33 CSR 20, governing hazardous waste management systems. Ms. Watson explained that the Rule incorporated by reference its federal counterpart, the most salient change to which is its attempt to reduce disposal by permitting facilities to stage hazardous waste for three days pending recycling. Mr. Raney asked whether three days was sufficient time, and Mr. Cather responded in the affirmative.

Mr. Franks presented 33 CSR 24, the Hazardous Waste Management Fee Rule. Mr. Franks explained that increases to the fee assessments are necessary to sustain the underlying Fund by ensuring sufficient matching revenue for federal grants. Ms. Price indicated her belief that, as part of the legislative compromise extending the fee's duration, no increases would be forthcoming until completion and review of the Fund's legislative audit. Secretary Huffman responded that the preliminary audit findings in no way indicate any misallocation within the Fund or contravene the agency's determination that fee increases are necessary. Ms. Lemmon was recognized, and she commented that the proposed increase was unfair to automobile and truck dealers, as well as other small generators. Ms. Lemmon suggested that a study be done to identify the industries causing DEP to incur program costs, with fee assessments to be made proportionately.

Ms. Watson presented 33 CSR 22 and 47 CSR 56, governing the assessment of civil administrative penalties for, respectively, hazardous and solid waste violations and violations relating to groundwater. Ms. Watson explained that the Rules were being modified for the first time since their initial promulgation, with the purpose of clarifying their application by listing additional factors to be considered in calculating penalties, providing ratings examples, and expanding facility categories.

Ms. Watson then presented 47 CSR 31, addressing the State Water Pollution Control Revolving Fund. Ms. Watson explained that the proposed changes include the creation of a state review process for sewer projects in lieu of a wholesale adoption of the federal requirements. Mr. Roberts observed that many of the eligibility criteria would be deleted, but Ms. Emery assured the Council that inasmuch as the criteria were not being uniformly met, the deletion would have no practical effect on the Fund's administration. Ms. Watson advised Mr. Roberts that if he continued to have concerns upon further review, he should submit written suggestions for changes during the formal comment period.

Mr. Franks presented 47 CSR 32, governing the certification of laboratories conducting analyses of waste and wastewater. Mr. Franks explained that the proposed changes are designed to modernize outdated procedures and protocols that have remained constant since 1995, and to increase program funding through increased certification fees and a new application fee. Mr. Raney asked whether the new fees would render the program self-sustaining, and Mr. Arnold replied that it would for the time-being. In response to further inquiry, Mr. Arnold stated that DEP conducts annual, on-site audits of commercial and industrial labs, with municipal labs typically audited every two years, depending on the experience of the support personnel.

Ms. Watson presented 47 CSR 34, the Dam Safety Rule. Ms. Watson explained that the Rule is being extensively augmented to govern disbursement and use of a new Revolving Fund to finance repair and rehabilitation of deficient dams. Secretary Huffman commented that it appeared imminent that the Legislature would approve a transfer of $350,000 from excess general revenue as seed money for the Fund.

Lastly, Ms. Watson presented 47 CSR 2, the Water Quality Standards Rule. Ms. Watson explained that the proposed revisions are designed to clarify the definition of Category A use, while providing specific standards to be applied in the permitting process to determine in a more streamlined fashion whether the use is unsuitable in cases of insufficient flow and hydrologic modification. Mr. Raney commented that the Category A determination process has always been a significant problem for the coal industry. Ms. Price also agreed for her members. Mr. Garvin noted that the environmental community had expressed some initial concern regarding the proposed streamlining mechanisms, but that there was some general support for taking the matter out of the legislative arena. Mr. Huffman affirmed that the revisions are designed solely for the benefit of the regulated public and that the revisions must include the clarification that Category A applies statewide.

Ms. Watson reported that the rules will proceed to be filed with the Secretary of State, some perhaps as early as the week following the Council meeting, and that some will have an extended 45-day comment period.

Mr. Franks requested closing comments from Council members and from the public. Following the cessation of discussion, Mr. Franks reminded the Council that the next meeting is scheduled for 1:30 p.m. on September 9, 2008.

Secretary Huffman declared the meeting adjourned at 3:25 p.m.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants"

Type of Rule: ___X__ Legislative _____Interpretive _____Procedural

Agency: Division of Air Quality

Address: 601 57th Street SE

Charleston, WV 25304

Phone Number: 926-0475 Email: tmowrer@wvdep.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No impact above that resulting from currently applicable federal emission standards.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR

Effect of Proposal	2009 Increase/Decrease (use "-")	2010 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	$ 0	$ 0	$ 0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Equipment	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants"

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

Costs anticipated to be incurred in the implementation of federal rules promulgated under 40 CFR Parts 61 and 63 as of June 1, 2008 are included in prior cost estimates prepared for state implementation of Title V of the Clean Air Act, as amended, under 45CSR30. Full Title V program approval was issued by the U.S. Environmental Protection Agency on November 19, 2001.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

TITLE 45
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
~~DIVISION OF~~ AIR QUALITY

SERIES 34
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

§45-34-1. General.

1.1. Scope. -- This rule establishes and adopts a program of national emission standards for hazardous air pollutants (NESHAPS) and other regulatory requirements promulgated by the United States Environmental Protection Agency pursuant to 40 CFR Parts 61, 63 and section 112 of the federal Clean Air Act, as amended (CAA). This rule codifies general procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the eight substances listed as hazardous air pollutants in 40 CFR §61.01(a), or one or more of the substances listed as hazardous air pollutants in section 112(b) of the CAA. The Secretary hereby adopts these standards by reference. The Secretary also adopts associated reference methods, performance specifications and other test methods which are appended to these standards.

1.2. Authority. -- W.Va. Code §22-5-4.

1.3. Filing Date. -- ~~April 23, 2008~~.

1.4. Effective Date. -- ~~June 1, 2008~~.

1.5. Incorporation by Reference. -- Federal Counterpart Regulation. The Secretary has determined that a federal counterpart regulation exists, and in accordance with the Secretary's recommendation, with limited exception, this rule incorporates by reference 40 CFR Parts 61, 63 and 65, to the extent referenced in 40 CFR Parts 61 and 63, effective ~~June 1, 2007~~ July 1, 2008.

1.6. ~~Repealed provisions. -- The repealed provisions of 45CSR15 - "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61" relating to federal standards for emissions of hazardous air pollutants are incorporated into this rule as of the effective date set forth in subsection 1.4.~~

~~1.7.~~ Former Rules. -- This legislative rule amends 45CSR34 - "Emission Standards for Hazardous Air Pollutants ~~for Source Categories Pursuant to 40 CFR Part 63~~" which was filed ~~April 28, 2006~~ April 23, 2008, and which became effective ~~June 1, 2006~~ June 1, 2008.

§45-34-2. Definitions.

2.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.

2.2. "Clean Air Act" ("CAA") means 42 U.S.C. §7401 et seq.

2.3. "Hazardous air pollutant" means any air pollutant listed pursuant to 40 CFR ~~Part~~ §61.01(a) or section 112(b) of the CAA.

2.4. "Secretary" means the Secretary of the Department of Environmental Protection or other person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§22-1-6 or 22-1-8.

2.5. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in 40 CFR Parts 61 and 63. Words and phrases not defined therein shall have the meaning given to them in federal Clean

Air Act.

§45-34-3. Requirements.

3.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated any source subject to the provisions of 40 CFR Parts 61 and 63 which results or will result in a violation of this rule.

3.2. No person may construct or reconstruct any major source of hazardous air pollutants, unless the Secretary determines that the maximum achievable control technology emission limitation under 40 CFR Part 63 and this rule for new sources will be met.

3.3. The Secretary shall determine and apply case-by-case maximum achievable control technology standards to existing sources categorized by the Administrator pursuant to section 112(c)(1) of the CAA for which the Administrator has not promulgated emission standards in accordance with sections 112(d) and 112(e) of the CAA.

3.4. Prior to constructing, reconstructing or modifying any facility subject to this rule, the owner or operator shall obtain a permit in accordance with the applicable requirements of 45CSR13, 45CSR14, 45CSR19, 45CSR30 and this rule.

§45-34-4. Adoption of Standards.

4.1. The Secretary hereby adopts and incorporates by reference the provisions of 40 CFR Parts 61, 63 and 65, to the extent referenced in 40 CFR Parts 61 and 63, including any reference methods, performance specifications and other test methods which are appended to these standards and contained in 40 CFR Parts 61, 63 and 65, effective ~~June 1, 2007~~ July 1, 2008, for the purposes of implementing a program for emission standards for hazardous air pollutants, except as follows:

4.1.a. 40 CFR §§61.16 and 63.15 are amended to provide that information shall be available to the public in accordance with W.Va. Code §§22-5-1 et seq., 29B-1-1 et seq., and 45CSR31;

4.1.b. Subpart E of 40 CFR Part 63 and any provision related to section 112(r) of the CAA, notwithstanding any requirements of 45CSR30 shall be excluded;

4.1.c. Provisions under Subpart HH of 40 CFR Part 63 which apply to non-major area sources of hazardous air pollutants described in 40 CFR §63.760(b)(2) shall be excluded;

4.1.d. Provisions under Subpart ZZZZ of 40 CFR Part 63 which apply to non-major area sources of hazardous air pollutants described in 40 CFR §63.6585(c) and (d) shall be excluded;

~~4.1.d.~~ 4.1.e. Subparts DDDDDD, EEEEEE, FFFFFF, ~~and~~ GGGGGG, LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, QQQQQQ, RRRRRR, SSSSSS, TTTTTT, YYYYY, WWWWW, ZZZZZ, HHHHHH, BBBBBB, CCCCCC and WWWWWW of 40 CFR Part 63 shall be excluded; and

~~4.1.e.~~ 4.1.f. Subparts B, H, I, K, Q, R, T, and W; Methods 111, 114, 115 and Appendix D and E of 40 CFR Part 61 shall be excluded.

§45-34-5. Secretary.

5.1. Any and all references in 40 CFR Parts 63 and 65 to the "Administrator" are amended to be the "Secretary" except as follows:

5.1.a. where the federal regulations specifically provide that the Administrator shall retain authority and not transfer authority to the Secretary;

5.1.b. where provisions occur which refer to:

5.1.b.1. alternate means of emission limitations;

5.1.b.2. alternate control technologies;

5.1.b.3. innovative technology waivers;

5.1.b.4. alternate test methods;

5.1.b.5. alternate monitoring methods;

5.1.b.6. waivers/adjustments to record-keeping and reporting;

5.1.b.7. emissions averaging; or

5.1.b.8. applicability determinations; or

5.1.c. where the context of the regulation clearly requires otherwise.

§45-34-6. Permits.

6.1. Nothing contained in this rule shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall in any way be limited or inapplicable.

§45-34-7. Inconsistency Between Rules.

7.1. In the event of any inconsistency between this rule and any other rule of the West Virginia Department of Environmental Protection, the inconsistency shall be resolved by the determination of the Secretary and the determination shall be based upon the application of the more stringent provision, term, condition, method or rule.

conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. In cases where the amount in dispute is $50,000 or less and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, convert the appeal to a SMALL CLAIMS (EXPEDITED) proceeding and at the conclusion of the hearing, after entertaining such oral arguments as he or she deems appropriate, render on the record oral summary findings of fact, conclusions of law, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a printed copy of such oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under § 955.30.

(c) At the request of Respondent, or on its own initiative, the Board may determine whether the amount in dispute and/or the appellant's status make the election of the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure inappropriate.

(d) *Motions for Reconsideration in Cases Arising Under § 955.13.* Motions for reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be decided within the time periods prescribed by this § 955.13 for the initial decision of the appeal, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this section.

(e) Except as herein modified, the rules of this part 955 otherwise apply in all aspects.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E7–12491 Filed 6–28–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 50 to 51, revised as of July 1, 2006, in Appendix S to Part 51, on page 483, reinstate paragraph II.A.4(iii) to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II.* * *

A.* * *

4.* * *

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this ruling whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

[FR Doc. 07–55507 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§§ 63.600 to 63.1199), revised as of July 1, 2006, in § 63.1103, paragraph (e)(2), on page 547, in alphabetical order, add the definition of "Organic HAP" to read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(e)* * *

(2)* * *

Organic HAP means the compounds listed in Table 1 to subpart XX of this part.

* * * * *

[FR Doc. 07–55506 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

Worker Protection Standard

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 150 to 189, revised as of July 1, 2006, in § 170.112, on page 212, paragraph (a)(1) is corrected to read as follows:

§ 170.112 Entry restrictions.

(a) * * * (1) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

* * * * *

[FR Doc. 07–55508 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2002–0043; FRL–8131–3]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

DATES: This deviation is effective from 6:30 a.m. on November 5, 2007 through 6:30 p.m. on December 18, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The Carlton Bridge, across the Kennebec River, mile 14.0, between Bath and Woolwich, Maine, has a vertical clearance in the closed position of 10 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.525.

The owner of the bridge, Maine Department of Transportation, requested a temporary deviation to facilitate bridge painting operations at the Carlton Bridge. The bridge rarely opens for vessel traffic in November and December.

Under this temporary deviation the Carlton Bridge need not open for the passage of vessel traffic between 6:30 a.m. and 6:30 p.m. on the days of November 5, 6, 12, 13, 19, 20, 26, 27, and December 3, 4, 10, 11, 17, and 18, 2007. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operation schedule.

Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

Dated: October 15, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–21244 Filed 10–26–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0048; FRL–8482–2]

RIN 2060–AO65

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 19, 2007, the United States Court of Appeals for the District of Columbia Circuit (the Court) vacated EPA's provisions in the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products that established an October 1, 2008, compliance deadline and that created and delisted a low risk subcategory of plywood and composite wood products facilities. This action announces the Court's decision and promulgates ministerial amendments that will incorporate the Court's decision into the Code of Federal Regulations.

DATES: This rule was effective on October 29, 2007.

ADDRESSES: The EPA does not seek comment on this final rule. The opinion issued by the Court on June 19, 2007 and other information about the rule are contained in Docket ID No. OAR–2003–0048 and Legacy Docket ID No. A–98–44. All documents in the docket are listed in the *www.regulations.gov* index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, Docket ID No. EPA–HQ–OAR–2003–0048, EPA West Building, Room 3334, 1301 Constitution Avenue, 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 EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and compliance assistance, contact your State or local representative or appropriate EPA Regional Office representative. For other information, contact Ms. Mary Tom Kissell, Office of Air Quality Planning and Standards, Sector Policies and Program Division, Coatings and Chemicals Group (E143–01), EPA, Research Triangle Park, NC 27711; telephone number: (919) 541–4516; fax number: (919) 541–0246; e-mail address: *kissell.mary@epa.gov.*

SUPPLEMENTARY INFORMATION: 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 final rule without first providing notice and an opportunity for public comment on a proposed rule. There is good cause for making today's rule final without prior proposal and opportunity for comment because the Court vacated EPA's promulgation of the October 1, 2008, compliance date and of the low-risk provisions. The Court ruled that EPA was without statutory authority in our 2006 amendments to the national emission standards for hazardous air pollutants (NESHAP) to re-set the compliance date of October 1, 2007, first promulgated in the 2004 NESHAP. The Court also ruled that EPA had no statutory authority to create and then delist the low-risk Plywood and Composite Wood Products (PCWP) subcategory.[1] Therefore, today's action has no legal effect beyond ministerially fulfilling the Court's order and is clerical in nature: we are merely revising the Code of Federal Regulations to conform our rules to the Court's order and announcing the Court's decision. Thus, notice and public procedure are unnecessary.

EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Providing an opportunity to comment on a proposed conforming amendment would be impracticable because it would unacceptably delay EPA's action beyond the October 1, 2007, compliance deadline the Court ruled EPA must re-impose. It would also be unnecessary, since the Court's direction was clear that EPA must remove the 2006 NESHAP's amendment re-setting the deadline beyond October 1, 2007, and the 2004 and 2006 provisions creating and delisting the low-risk PCWP subcategory was beyond EPA's statutory authority. Finally, it is not in the public

[1] The Court also remanded and vacated EPA's determinations that certain process units at PCWP facilities need not be subject to emissions controls. EPA will respond to that portion of the Court's ruling in a separate notice and comment rulemaking, and is not addressing that issue in today's final rule.

interest to delay revising the rule to conform to the Court's order on these issues, as continuing to leave the vacated provisions in place creates confusion among the regulated community, implementing States and local governments, and the general public.

Regulated Entities

Categories and entities potentially affected by today's action include:

Category	SIC code [a]	NAICS code [b]	Examples of regulated entities
Industry	2421	321999	Sawmills with lumber kilns.
	2435	321211	Hardwood plywood and veneer plants.
	2436	321212	Softwood plywood and veneer plants.
	2493	321219	Reconstituted wood products plants (particleboard, medium density fiberboard, hardboard, fiberboard, and oriented strandboard plants).
	2439	321213	Structural wood members, not elsewhere classified (engineered wood products plants).

[a] Standard Industrial Classification.
[b] North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by today's action. To determine whether your facility is affected by today's action, you should examine the applicability criteria in § 63.2231 of the final rule. If you have questions regarding the applicability of today's action to a particular entity, consult your State or local representative or the appropriate EPA Regional Office representative.

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's action also will be available on the Worldwide Web (WWW) through EPA's Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this action will be posted on the TTN's policy and guidance page for newly promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

I. Background

We proposed NESHAP for the PCWP source category on January 9, 2003 (68 FR 1276). The final rule (subpart DDDD in 40 CFR part 63) was published on July 30, 2004 (69 FR 45944). In addition to adopting maximum achievable control technology (MACT) standards for the PCWP category, we adopted a risk-based approach in the 2004 final rule by establishing and delisting a low-risk subcategory of PCWP affected sources, which would have allowed low-risk sources to avoid complying with MACT. Except for eight sources that we determined were already eligible to join the low-risk subcategory and avoid MACT, all PCWP sources were initially included in the category subject to MACT, and any would-be low-risk sources could subsequently join the low-risk subcategory after EPA approved their submitted low-risk demonstrations. The methodology and criteria for PCWP affected sources to use in demonstrating that they are eligible to join the delisted low-risk subcategory were promulgated in the 2004 final rule in appendix B to subpart DDDD of 40 CFR part 63. Any source who failed to obtain EPA approval of a low-risk demonstration would remain subject to MACT.

Following promulgation of the 2004 final PCWP rule, the Administrator received a petition for reconsideration filed by the Natural Resources Defense Council (NRDC) and Environmental Integrity Project (EIP) pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA). The petition requested reconsideration of nine aspects of the final rule including the legal basis for the risk-based provisions. The petition for reconsideration also requested a stay of the effectiveness of the risk-based provisions. In a letter dated December 6, 2004, EPA granted NRDC's and EIP's petition for reconsideration and declined the petitioners' request that we take action to stay the effectiveness of the risk-based provisions.

On July 29, 2005 (70 FR 44012), we published a notice of reconsideration and requested comment on the issues in the petition for reconsideration, including the full content of appendix B to subpart DDDD. In a separate notice published on July 29, 2005 (70 FR 44012), we proposed amendments to subpart DDDD and both of the appendices to subpart DDDD including a request for comment on whether the MACT compliance date should be extended for sources submitting low-risk demonstrations or for all sources. On February 16, 2006, EPA promulgated amendments to the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products. In the 2006 final rule, we promulgated a revised compliance deadline of October 1, 2008, for sources subject to the rule, which was 1 year later than the date originally promulgated.

Following promulgation of the 2004 final PCWP rule, four petitions for judicial review of the final PCWP rule were filed with the Court by NRDC and Sierra Club (No. 04–1323, D.C. Cir.), EIP (No. 04–1235, D.C. Cir.), Louisiana-Pacific Corporation (No. 04–1328, D.C. Cir.), and Norbord Incorporated (No. 04–1329, D.C. Cir.). The four cases were consolidated. The NRDC, Sierra Club, and EIP petitions for judicial review [2] addressed three major concerns: (1) EPA's legal authority to create and delist a low-risk subcategory; (2) EPA's re-setting of the compliance date; and (3) EPA's failure to set emission standards for HAP from all emission points. In March 2007, before the Court decided the PCWP case, it ruled in *Sierra Club*, 479 F.3d 875, that "EPA's failure to set floors for existing small tunnel brick kilns and new periodic brick kilns violated [the] CAA * * * noting that the court had held unlawful EPA's "no control" emissions floors for categories in which the best performers used no emission control technology." Subsequently, in April 2007, EPA requested a voluntary remand and vacatur of the 2004 final MACT determinations for PCWP emissions points that do not have emission limits (i.e., the "no emission reduction" MACT determinations also commonly known as "no-control MACT floors").

On June 19, 2007, the Court issued its opinion remanding and vacating EPA's no emission reduction MACT determinations, the low-risk provisions,

[2] The Louisiana-Pacific Corporation and Norbord Incorporated petition for judicial review did not result in any change to the PCWP NESHAP and is not discussed in this preamble.

and the October 1, 2008 compliance date.

While today's rule implements the Court's order regarding the compliance date and low-risk subcategory provisions, EPA will separately reconsider the MACT determinations for the emission points for which EPA had previously determined MACT to be "no emissions reduction," and publish our proposed responses to the Court's remand of those decisions in a separate notice.

II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see the **SUPPLEMENTARY INFORMATION** section of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This rule 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This final rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate ambiguity as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 30, 2004 **Federal Register** notice.

The Congressional Review Act (CRA) (5 U.S.C. 801, *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 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 public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects for 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: October 18, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

Authority: 42 U.S.C. 7401.

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraphs (b)(54), (f)(3) and (f)(4) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(54) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, incorporation by reference (IBR) approved for Table 4 to Subpart DDDD of this part as specified in the subpart.

* * * * *

(f) * * *

* * * * *

(3) NCASI Method IM/CAN/WP–99.02, Impinger/Canister Source Sampling Method for Selected HAPs and Other Compounds at Wood Products Facilities, January 2004, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for Table 4 to Subpart DDDD of this part.

(4) NCASI Method ISS/FP A105.01, Impinger Source Sampling Method for Selected Aldehydes, Ketones, and Polar Compounds, December 2005, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for table 4 to subpart DDDD of this part.

* * * * *

Subpart DDDD—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products—[Amended]

■ 3. Section 63.2231 is amended by revising the introductory paragraph to read as follows:

§ 63.2231 Does this subpart apply to me?

This subpart applies to you if you meet the criteria in paragraphs (a) and (b) of this section.

* * * * *

■ 4. Section 63.2233 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.2233 When do I have to comply with 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.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, you must be in compliance with this subpart by October 1, 2007 or

upon initial startup of your affected source as a major source, whichever is later.

* * * * *

■ 5. Section 63.2291 is amended by revising paragraph (c) introductory text and removing 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 (4) of this section.

(1) * * *

* * * * *

Appendices B and C—[Removed]

■ 6. Appendices B and C to Subpart DDDD of part 63 are removed.

[FR Doc. 07–5295 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[Docket No. EPA–R05–RCRA–2007–0397; FRL–8488–6]

Ohio: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting Ohio Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on June 6, 2007 at 72 FR 31237 and provided for public comment. The public comment period ended on July 6, 2007. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is proposing to authorize the State's changes through this proposed final action.

DATES: The final authorization will be effective on October 29, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R05–RCRA–2007–0397. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some of the information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy. You may view and copy Ohio's application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary Westefer (312) 886–7450; or Ohio Environmental Protection Agency, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio, contact: Jeff Mayhugh (614) 644–2950.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Ohio Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450, e-mail *westefer.gary@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Ohio's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Ohio final authorization to operate its hazardous waste program with the changes described in the authorization application. Ohio has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Ohio, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Ohio subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Ohio has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports

2. Enforce RCRA requirements and suspend or revoke permits

3. Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Ohio is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On June 6, 2007 (72 FR 31237), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Ohio's hazardous waste program and opened our decision to public comment. The agency received no comments on this proposal. EPA found Ohio's RCRA program to be satisfactory.

E. What Has Ohio Previously Been Authorized for?

Ohio initially received final authorization on June 28, 1989, effective June 30, 1989 (54 FR 27170) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 8, 1991, effective June 7, 1991 (56 FR 14203) as corrected June 19, 1991, effective August 19, 1991 (56 FR 28088); July 27, 1995, effective September 25, 1995 (60 FR 38502); October 23, 1996, effective December 23, 1996 (61 FR 54950); January 24, 2003, effective January 24, 2003 (68 FR 3429); and January 20, 2006, effective January 20, 2006 (71 FR 3220).

Federal Register

Friday,
November 16, 2007

Part III

Environmental Protection Agency

40 CFR Parts 60 and 63
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; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2006–0699; FRL–8492–4]

RIN 2060–AN71

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing final amendments to the standards of performance for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and to the standards of performance for equipment leaks of volatile organic compounds in petroleum refineries. The amended standards for the synthetic organic chemicals manufacturing industry apply to affected facilities that are constructed, reconstructed, or modified after January 5, 1981, and on or before November 7, 2006. The amended standards for petroleum refineries apply to affected facilities that are constructed, reconstructed, or modified after January 4, 1983, and on or before November 7, 2006. In this action, EPA is also issuing new standards of performance for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and for equipment leaks of volatile organic compounds in petroleum refineries which apply to affected facilities that are constructed, reconstructed, or modified after November 7, 2006. The final amendments and new standards are based on the results of our review of the existing regulations as required by section 111(b)(1)(B) of the Clean Air Act.

DATES: This final rule is effective on November 16, 2007. The incorporation by reference of certain publications listed in these rules is approved by the Director of the Federal Register as of November 16, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0699. All documents in the docket are listed in the Federal Docket Management System index at *www.regulations.gov*. 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 either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA West Building, Room 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 Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning the final amendments and new standards, contact Ms. Karen Rackley, Coatings and Chemicals Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0634; fax number: (919) 541–0246; e-mail address: *rackley.karen@epa.gov*. For information concerning compliance and enforcement of the final amendments and new standards, contact Ms. Marcia Mia, Air Compliance Branch, Compliance Assessment and Media Programs Division, Office of Compliance (MC 2223A), Environmental Protection Agency, Washington, DC 20460; telephone number: (202) 564–7042; fax number: (202) 564–0050; and e-mail address: *mia.marcia@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code[1]	Examples of potentially regulated entities
Industry	324110 Primarily 325110, 325192, 325193, and 325199.	Petroleum refiners. Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in 40 CFR 60.489.

[1] North American Industrial Classification Code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 60.480, 60.590, 60.480a, and 60.590a. If you have any questions regarding the applicability of the final amendments or new standards to a particular entity, contact the people listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is available on the WWW through the Technology Transfer Network (TTN). Following signature, EPA will post a copy of the final rule on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b) of the Clean Air Act (CAA), judicial review of the final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by January 15, 2008. Under section 307(d)(7)(B) of the CAA, only an objection to the final rule that was raised with reasonable specificity during the period for pubic comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[O]nly 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 us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that is 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 to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios 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.

Outline. The information presented in this preamble is organized as follows:

I. Background Information

A. What is the statutory authority for the final amendments and new standards?

New source performance standards (NSPS) implement CAA section 111 and are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The primary purpose of the NSPS are to attain and maintain ambient air quality by ensuring that the best demonstrated emission control technologies are installed as the industrial infrastructure is modernized. Since 1970, the NSPS have been successful in achieving long-term emissions reductions at numerous industries by assuring cost-effective controls are installed on new, reconstructed, or modified sources.

Section 111 of the CAA requires that NSPS reflect the application of the best system of emission reductions which (taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. This level of control is commonly referred to as best demonstrated technology (BDT).

Section 111(b)(1)(B) of the CAA requires that EPA periodically review and revise the standards of performance, as necessary, to reflect improvements in methods for reducing emissions. Based on the results of the review required by CAA section 111(b)(1)(B), we proposed amendments to the NSPS for equipment leaks of volatile organic compounds (VOC) in the synthetic organic chemicals manufacturing industry (SOCMI) and the petroleum refining industry on November 7, 2006 (71 FR 65302). In this action, EPA is finalizing amendments to 40 CFR part 60, subparts VV and GGG and issuing new standards of performance in 40 CFR part 60, subparts VVa and GGGa.

B. What are the current equipment leak NSPS?

New source performance standards for equipment leaks of VOC have been developed for four source categories. Subpart VV of 40 CFR part 60 applies to SOCMI process units. Subpart DDD of 40 CFR part 60, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry, applies to polypropylene, polyethylene, polystyrene, and poly (ethylene terephthalate) process units. Subpart GGG of 40 CFR part 60 applies to petroleum refining process units. Subpart KKK of 40 CFR part 60 applies to onshore natural gas processing plants. Subparts DDD, GGG, and KKK of 40 CFR part 60 cross-reference the requirements in subpart VV, and they specify source category-specific definitions and exceptions to the requirements in subpart VV.

The NSPS for equipment leaks of VOC in the SOCMI (40 CFR part 60, subpart VV) were originally promulgated on October 18, 1983 (48 FR 48335) and apply to all equipment, as defined by the rule, within a process unit in the SOCMI that commenced construction, reconstruction, or modification after January 5, 1981. For the purpose of subpart VV, the SOCMI consists of process units producing any of the chemicals listed in 40 CFR 60.489 of subpart VV. The standards apply to pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines (OEL), valves, and flanges or other connectors in VOC service. Depending on the type of equipment, the standards require either periodic monitoring for and repair of leaks, the use of specified equipment to minimize leaks, or specified work practices. Monitoring for leaks must be conducted using EPA Method 21 in appendix A–7 to 40 CFR part 60 or other approved equivalent monitoring techniques. Owners and operators must keep records that identify the equipment that is subject to the standards, identify equipment that is leaking, and document attempts at repair. Information related to leaks and repair attempts also must be included in semiannual reports. This subpart has been amended several times between 1984 and 2000. Typically, these amendments added definitions, exemptions, alternative compliance options, and clarifications. For example, one amendment provides an option to comply with the equipment leak provisions in the Consolidated Federal Air Rule (CAR) (40 CFR part 65, subpart F). None of these amendments increased the intended performance level of the standards.

The NSPS for equipment leaks of VOC in petroleum refineries (40 CFR part 60, subpart GGG) apply to petroleum refining process units for which construction, reconstruction, or modification commenced after January

4, 1983. Those standards were originally promulgated on May 30, 1984 (49 FR 22606), and have been amended only once since the original promulgation (65 FR 61768, October 17, 2000) to update the American Society for Testing and Materials (ASTM) test method references.

C. How were the final amendments developed?

We proposed amendments to 40 CFR part 60, subpart VV and 40 CFR part 60, subpart GGG on November 7, 2006 (71 FR 65302). The preamble for the proposed amendments described the rationale for the proposed amendments. Public comments were solicited at the time of proposal. The public comment period lasted from November 7, 2006, to February 8, 2007. We offered at proposal the opportunity for a public hearing concerning the proposed amendments, but no hearing was requested. We also published a Notice of Additional Data Availability (NODA) on July 9, 2007 (72 FR 37157). The NODA provided additional information regarding OEL. Public comments were solicited at the time of publication, and the public comment period lasted from July 9, 2007, to August 8, 2007.

We received a total of 28 public comment letters during the comment periods, 23 on the proposed amendments and five on the NODA. Comments were submitted by industry trade associations and consultants, chemical companies and petroleum refineries, state regulatory agencies, local government agencies, and environmental groups. These final amendments reflect our consideration of all of the comments received during the comment periods. Major public comments on the proposed amendments, along with our responses to those comments, are summarized in this preamble.

II. Summary of the Final Amendments, New Standards, and Changes Since Proposal

In response to public comments, we have revised the scope and applicability of the proposed amendments to the standards of performance for equipment leaks of VOC for SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG). As proposed, all of the amendments to subparts VV and GGG, except the change in leak definitions for pumps and valves, applied to affected facilities in these industries that commenced construction, reconstruction, or modification after January 5, 1981, (SOCMI) or January 4, 1983, (petroleum refineries). In addition, all of the proposed amendments, except the leak definition change, applied to affected facilities under all other NSPS that cross-reference subpart VV (i.e., 40 CFR part 60, subparts DDD and KKK).

Based on the public comments, we decided to include only clarifications, changes that reduce burden, and additional compliance options in the final amendments to 40 CFR part 60, subparts VV and GGG. The final amendments to both subparts also limit which SOCMI and petroleum refinery affected sources are subject to the existing subparts. Specifically, the existing subparts only apply to those existing affected sources that commenced construction, reconstruction, or modification after January 5, 1981, (SOCMI) or January 4, 1983, (petroleum refineries) and on or before November 7, 2006. The final amendments to subpart VV also apply to affected sources under NSPS that cross-reference subpart VV (i.e., 40 CFR part 60, subparts DDD and KKK).

In addition to amending 40 CFR part 60, subparts VV and GGG, we also decided to develop new standards in new subparts VVa and GGGa of 40 CFR part 60 that apply only to SOCMI and petroleum refinery affected sources, respectively, that commence construction, reconstruction, or modification after November 7, 2006. These new standards parallel the standards in the amended subparts VV and GGG, but they also include different standards for pumps in light liquid service and valves in gas/vapor or light liquid service (i.e., lower leak definitions than in subparts VV and GGG), and they include additional recordkeeping and instrument calibration requirements. Furthermore, the new standards in 40 CFR part 60, subpart VVa include monitoring and repair requirements for connectors. The new standards do not apply to affected sources under 40 CFR part 60, subparts DDD or KKK because we have not amended those subparts to reference the requirements in subpart VVa and we have not completed an analysis to determine if the new standards are BDT for subparts DDD and KKK.

A. What are the final amendments to 40 CFR part 60, subpart VV?

The final amendments to 40 CFR part 60, subpart VV provide additional compliance options, clarify ambiguous provisions, and make technical corrections. These changes are summarized in Table 1 in section III.C of this preamble.

1. Applicability

The owner or operator of an affected facility subject to 40 CFR part 60, subpart VV may choose to comply with the requirements in new 40 CFR part 60, subpart VVa instead of the requirements in subpart VV.

2. Standards

The final amendments simplify the compliance requirements for pumps. When indications of liquids dripping are observed during weekly inspections, 40 CFR part 60, subpart VV requires repair of the leak following the same procedures as if the leak were detected by monitoring. The final amendment in 40 CFR 60.482–2(b)(2) allows the owner or operator to either repair the leak by eliminating the indications of liquids dripping or determine if it is leaking based on the instrument reading obtained by monitoring the pump in accordance with EPA Method 21 (40 CFR part 60, appendix A–7) or other approved equivalent monitoring techniques. This amendment will focus the leak detection and repair (LDAR) program on finding and repairing VOC leaks.

The final amendments also include an alternative compliance option that allows less frequent monitoring for pumps and valves in batch process units that operate part-time during the year. This alternative applies to currently required monthly, quarterly, and semiannual monitoring intervals; less frequent monitoring is not allowed for monitoring that is currently required on an annual or less frequent basis. For example, pumps in a process unit that operate 5,250 hours per year (about 60 percent of full-time operation) may be monitored every other month rather than monthly. This alternative will ensure that monitoring occurs consistently while the process unit is operating. The alternative monitoring schedule for batch processes was developed as part of the development of the hazardous organic national emission standards for hazardous air pollutants (NESHAP) (HON) (57 FR 62680). This alternative has been determined to be comparable to the provisions for continuous processes. As the time in use increases, the monitoring frequencies are identical for both batch and continuous processes.

In response to public comments, we have revised the proposed clarification to the initial monitoring requirements for pumps and valves (that all pumps and valves be monitored within the first month of operation after installation). The final amendments require the owner or operator to monitor all pumps

on a monthly basis regardless of whether the pump is new or existing. The owner or operator of a new valve must monitor the valve for the first time within 30 days after being placed into service to ensure proper installation. Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected. As an alternative to monitoring a new valve within 30 days, if the valves in the process unit are monitored under the alternative standards for valves that allow skip period leak detection and repair in 40 CFR 60.483–2, the owner or operator must count the new valve as leaking when calculating the percentage of valves leaking. If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into two or three subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

The clarifications to the requirements for sampling connection systems in 40 CFR 60.482–5 have been revised since proposal to add additional destinations for purged process fluid. All containers must be covered when not being filled or emptied. The amendments also clarify what materials must be captured and returned to the process during sampling.

In response to comments, we have revised the proposed option for delay of repair in 40 CFR 60.482–9. The proposed amendment would have allowed the owner or operator to discontinue monitoring for equipment on delay-of-repair. We have not included this in the final amendments and new standards because a leak may worsen while on delay-of-repair and require a more immediate shutdown. Therefore, all equipment on delay-of-repair must be monitored as scheduled. The option to consider equipment to be repaired if two consecutive readings are below the leak definition was not removed. If two consecutive readings are below the applicable leak definition, the owner or operator may remove the equipment from delay-of-repair.

3. Definitions

Several amendments clarify the original intent of the definitions in 40 CFR part 60, subpart VV. These definitions include "connector," "process unit," and "sampling connection system." In addition, definitions of "closed-loop system," "closed-purge system," "storage vessel," and "transfer rack" were added to further clarify existing definitions. The definition of "process unit" is discussed in further detail in section IV.A.3 of this preamble. The rationale for revising and adding the other definitions is included in Docket ID No. EPA–HQ–OAR–2006–0699.

4. Miscellaneous Corrections

Finally, the final amendments include a few technical corrections to fix references and other miscellaneous errors in 40 CFR part 60, subpart VV. No changes have been made to the proposed corrections, and a number of additional corrections are included in the final amendments. The technical corrections are identified in section III.A.3 of the preamble to the proposed amendments (71 FR 65307–65308, November 7, 2006) as well as Table 1 of this preamble.

B. What are the final amendments to 40 CFR part 60, subpart GGG?

A few minor changes have been made to the 40 CFR part 60, subpart GGG amendments since proposal. The heading and 40 CFR 60.590(b) were revised to clarify that the subpart applies to sources that commence construction, reconstruction, or modification on or before November 7, 2006, and 40 CFR 60.590(d) was revised to exclude facilities subject to 40 CFR part 60, subpart VVa. Proposed revisions that remain in the final amendments to subpart GGG include a definition of "asphalt" and an exemption from the requirements for OEL in 40 CFR 60.482–6(a) through (c) for OEL containing asphalt. The definition of "process unit" is comparable to the definition in 40 CFR part 60, subpart VV.

The final amendments also include a few technical corrections to fix references and other miscellaneous errors in 40 CFR part 60, subpart GGG. These changes are identified in section III.B.5 of the preamble to the proposed amendments (71 FR 65309, November 7, 2006). No changes have been made to these corrections since proposal.

C. What are the requirements of 40 CFR part 60, subpart VVa?

40 CFR part 60, subpart VVa applies to affected facilities in the SOCMI that are constructed, reconstructed, or modified after November 7, 2006. This new subpart includes all the requirements of 40 CFR part 60, subpart VV, as amended, along with new provisions. The owner or operator of an affected facility subject to subpart VVa may elect to comply with the CAR at 40 CFR part 65, subpart F, or the HON at 40 CFR part 63, subpart H, instead of the requirements in subpart VVa, provided they still comply with the requirements in 40 CFR 60.482–6a.

40 CFR part 60, subpart VVa includes lower leak definitions for pumps and valves than 40 CFR part 60, subpart VV. Under subpart VVa, the leak definition for pumps in light liquid service is 2,000 parts per million (ppm) (5,000 ppm for pumps handling polymerizing monomers) instead of 10,000 ppm. The leak definition for valves in gas/vapor service or light liquid service is 500 ppm instead of 10,000 ppm. Rationale for this new standard was provided in section III.A.1 of the preamble to the proposed amendments and is discussed further in section III.A.1 of this preamble.

40 CFR part 60, subpart VVa also includes requirements for monitoring connectors. The owner or operator is required to monitor connectors at a leak definition of 500 ppm and at a frequency that is based on the percentage of connectors found to be leaking. The rationale supporting the LDAR provisions for connectors is located in section III.A.2 of this preamble.

40 CFR part 60, subpart VVa includes additional recordkeeping requirements and quality assurance measures. Records must identify the monitoring instrument, operator, equipment, the date, and maximum instrument reading. A calibration drift assessment is required at the end of each day of monitoring and records of monitoring instrument calibrations are required. The calibration drift assessment requirements proposed for 40 CFR part 60, subpart VV were revised based on public comments. The requirements in the new standards include a requirement to remonitor equipment if the drift assessment shows positive drift. The requirements in the new standards provide for a less stringent remonitoring effort for drift assessments showing negative drift.

D. What are the requirements of 40 CFR part 60, subpart GGGa?

40 CFR part 60, subpart GGGa applies to affected facilities at petroleum refineries that are constructed, reconstructed, or modified after November 7, 2006. New subpart GGGa

includes the requirements in 40 CFR part 60, subpart GGG, as amended. Affected facilities must comply with the requirements in new subpart VVa of 40 CFR part 60, except for the monitoring requirements applicable to connectors.

III. Rationale for Changes Since Proposal

A. How did EPA develop new standards for 40 CFR part 60, subparts VVa and GGGa?

Five sources of information were considered in reviewing the appropriateness of the current NSPS requirements for new sources: (1) Applicable Federal regulations; (2) applicable state and local regulations; (3) data from National Enforcement Investigations Center (NEIC) inspections; (4) emissions data provided by industry representatives; and (5) petroleum refinery consent decrees. (A significant number of refineries, representing about 77 percent of the national refining capacity, are subject to consent decrees that limit the emissions from 40 CFR part 60, subpart GGG process units.) Once we identified leak definitions for various equipment types, we evaluated these leak definitions in conjunction with technical feasibility, costs, and emission reductions to determine BDT for each type of equipment.

The cost methodology incorporates the calculation of annualized costs and emission reductions associated with each of the options presented. Cost-effectiveness is the annualized cost of control divided by the annual emission reductions achieved. For NSPS regulations, the standard metric for expressing costs and emission reductions is the impact on all affected facilities accumulated over the first 5 years of the regulation. Details of the calculations can be found in the public docket (EPA–OAR–HQ–2006–0699). Our BDT determinations took all relevant factors into account, including cost considerations.

For each of the new standards, the predominant method used to reduce emissions from equipment leaks is the work practice of an LDAR program that includes periodic monitoring of equipment using EPA Method 21. This method has been used for more than 20 years to detect leaks and is currently the most widely-used test method. However, other approved methods may be used to detect leaks.

We also considered an equipment standard requiring installation of "leakless" equipment. "Leakless" equipment, such as diaphragm valves, is less likely to leak than standard equipment, but leaks may still develop. Therefore, monitoring or other type of observation is appropriate to ensure that leaks are caught if they develop. In addition, these types of equipment may not be suitable for all possible process operating temperatures, pressures, and fluid types. We could not identify any new "leakless" technologies that could be applied in all applications. Therefore, requiring "leakless" equipment is not technically feasible and this option was not considered to be BDT for SOCMI or petroleum refining sources. We note that 40 CFR part 60, subpart VV does include provisions for equipment designed for no detectable emissions, so owners or operators that do replace existing equipment with "leakless" equipment have options for compliance.

1. Leak Definitions for Pumps and Valves

We previously demonstrated that leak definitions of 2,000 ppm for pumps and 500 ppm for valves are BDT in the preamble to the proposed amendments to 40 CFR part 60, subparts VV and GGG (November 7, 2006, 71 FR 65305, with additional discussion at 71 FR 65308). Since proposal, the cost-effectiveness values for this new requirement have changed slightly based on changes to the assumptions used to develop emission estimates; section V of this preamble includes details on the specific changes. For SOCMI, the estimated emission reductions are 94 tons of VOC per year at a cost savings of $380/ton. For petroleum refineries, the estimated emission reductions are 13 tons of VOC per year at a cost of $1,600/ton. The cost to achieve these emission reductions is still considered to be reasonable; therefore, we maintain our original conclusion that EPA Method 21 monitoring of pumps and valves and repair of leaks above 2,000 ppm for pumps and 500 ppm for valves is BDT.

We have also evaluated the cost-effectiveness of lowering the leak definitions even further for valves because there are some state rules and petroleum refinery consent decrees at lower levels. The results of that analysis show that an LDAR program for valves at a leak definition lower than 500 ppm is not cost-effective. The analysis shows emission reductions of 26 tons of additional VOC per year at a cost-effectiveness of $5,700/ton for SOCMI and emission reductions of 8 tons of additional VOC per year at a cost-effectiveness of $16,000/ton for refineries. The additional VOC emission reductions at a leak definition lower than 500 ppm is not cost-effective. The results of the impacts analysis is provided in the docket (Docket ID No. EPA–HQ–OAR–2006–0699).

We decided not to consider a lower leak definition for pumps because we do not have evidence that it will achieve significant emission reductions at reasonable cost and because such a requirement would impose an unwarranted increase in the compliance burden. No other Federal or state rules require repair of pumps with leaks below 2,000 ppm, and concerns have been expressed in the past that repair of pumps with lower concentrations could result in significant and costly maintenance. We also cannot estimate the emission reductions because we are unsure how effective repairs will be for pumps with low leak concentrations. In addition, many facilities that will be subject to the new standards have other process units that are subject to other standards. Including a leak definition in the new standards that differs from the leak definitions in all other rules would make compliance more challenging at such facilities and unnecessarily increase the potential for inadvertent errors.

We also did not consider increasing the number of times per year that valves and pumps must be monitored. Valves and pumps are already subject to monthly monitoring. The cost to monitor more frequently would outweigh the possible emission reductions. Additionally, pumps are subject to weekly inspections for indications of liquids dripping. Therefore, the monitoring frequency was not changed and is still considered BDT.

2. Other New Standards in 40 CFR Part 60, Subpart VVa

Connector Monitoring. The current NSPS in 40 CFR part 60, subpart VV limits VOC emissions from connectors by specifying that if a potential leak is found by visual, audible, olfactory, or any other detection method, the owner or operator must eliminate the indications of the potential leak or monitor the connector to determine whether the potential leak is leaking VOC greater than 10,000 ppm. If the potential leak is actually a leak, it must be repaired. When the current NSPS were promulgated, we concluded that this procedure would reduce emissions by correcting major leaks.

After consideration of current operating practices, we concluded that repairing connector leaks as they are discovered is still the predominant method for reduction of VOC from connectors. However, during our review of the current requirements, we found a

number of Federal and state regulations that require additional efforts to reduce emissions, including regular monitoring and repair. Therefore, we evaluated options to achieve further emission reductions from connectors. Federal rules in which connector monitoring and repair of leaks above 500 ppm is required include the National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (HON) in 40 CFR part 63, subpart H, the National Emission Standards for Equipment Leaks—Control Level 2 Standards (Generic MACT) in 40 CFR part 63, subpart UU, the National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards (Ethylene NESHAP) in 40 CFR part 63, subpart YY, and the CAR. The National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing (MON) in 40 CFR part 63, subpart FFFF also includes connector monitoring and repair of leaks above 500 ppm for new sources. In addition, the National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries (Refinery NESHAP) in 40 CFR part 63, subpart CC provides a higher maximum value for percent of leaking valves under which an owner or operator may use the skip period provisions if connector monitoring is included in the LDAR program. Based on this information, we felt that additional VOC control could be achieved by requiring connector monitoring and repair, but we needed additional information to determine whether connector monitoring is BDT. As a result, we requested comment on whether we should require periodic monitoring and repair of connectors to ensure that any leaks are corrected more quickly.

Upon consideration and review of the public comments, we evaluated whether the connector monitoring and repair provisions included in the Generic MACT are BDT for 40 CFR part 60, subparts VVa and GGGa. The Generic MACT provisions include a leak definition of 500 ppm and a monitoring frequency based on the number of connectors found to be leaking during the initial monitoring campaign.

For SOCMI, the estimated emission reductions achieved by connector monitoring and repair of leaks above 500 ppm are 230 tons of VOC per year at a cost of $2,500/ton. For petroleum refineries, the estimated emission reductions are 92 tons of VOC per year at a cost of $20,000/ton. The cost to achieve these emission reductions is considered to be reasonable for SOCMI sources but is not reasonable for petroleum refineries. Based on these impacts and consideration of current operating practices, we concluded that BDT for connectors at SOCMI sources is monitoring using EPA Method 21 or another approved alternative method at a frequency based on the number of connectors found leaking during initial monitoring and repair of leaks above 500 ppm. We concluded that BDT for connectors at petroleum refineries is equivalent to the current 40 CFR part 60, subpart GGG requirements. Therefore, we are promulgating connector monitoring and repair standards consistent with this determination for SOCMI sources subject to 40 CFR part 60, subpart VVa that will not apply to petroleum refinery sources subject to 40 CFR part 60, subpart GGGa.

B. How did EPA develop the new compliance requirements in 40 CFR part 60, subparts VVa and GGGa?

The recordkeeping requirements in the final amendments and new standards are authorized by section 114 of the CAA. Section 114 of the CAA allows EPA to require one-time, periodic, or continuous records for the purpose of determining if the owner or operator is in compliance with the standard. The recordkeeping requirements in the final amendments are the minimum necessary for affected facilities to demonstrate compliance and for EPA to enforce the rule. The recordkeeping requirements in the new standards include a few requirements in addition to the requirements in the final amendments. Most of these requirements are associated with new monitoring and repair requirements; other additional requirements are minimal and are necessary for EPA to enforce the rule. Further rationale for the new requirements is available below and in section IV.D of this preamble.

We have made significant changes to the proposed recordkeeping requirements as a result of the changes made to the scope and applicability of the standards. Because the final amendments to 40 CFR part 60, subparts VV and GGG include only clarifications to existing requirements, burden reducing provisions, and new compliance options, no changes or additions to the recordkeeping requirements in subpart VV or GGG are needed to document and/or enforce these amendments.

Sources subject to the new standards in 40 CFR part 60, subpart VVa are required to keep records of the same information required by 40 CFR part 60, subpart VV and certain additional information described below. Sources subject to 40 CFR part 60, subpart GGGa must comply with the requirements in subpart VVa except for the monitoring requirements applicable to connectors (and the associated recordkeeping requirements). Facilities subject to 40 CFR part 60, subparts DDD, GGG, or KKK are excluded from the requirement to comply with the recordkeeping provisions of subpart VVa because these subparts are not being amended to reference the new standards in subpart VVa.

The new recordkeeping provisions in 40 CFR part 60, subpart VVa require general identifying information for each monitoring activity required by the rule. As explained in the preamble to the proposed amendments (71 FR 65308, November 7, 2006), many facilities already record this information. This information requirement is consistent with other equipment leak standards and is needed by enforcement representatives to determine if the facility is complying with the standards. Specifically, EPA found that the results of the LDAR review demonstrated that the current requirements are not sufficient to verify that all monitoring requirements have been performed. For example, EPA enforcement initiatives have found missed monitoring (monitoring at an inappropriate interval, monitoring late, or not monitoring), understated leak rates, leaks not found or repaired, and monitoring records indicating that more equipment was monitored than physically possible given the time needed to meet EPA Method 21 requirements, among other issues. Since we cannot physically inspect every facility on the schedule required by the LDAR program, these additional records will provide safeguards that the program is being implemented as intended.

Other new recordkeeping requirements include specific information that is necessary to demonstrate compliance with the new monitoring provisions for connectors and pumps in light liquid service (weekly visual inspections for indications of dripping liquids). Records are also required to demonstrate compliance with the requirement for a calibration drift assessment at the end of each day and comparison of the results of the assessment with the most recent calibration results. We eliminated the proposed requirement to keep records of information on bypass lines because the new subpart does not include the requirement to monitor bypass lines. In addition, records of information related to the proposed initial monitoring requirement for pumps and valves

added to a process unit are not required because this monitoring requirement was revised since proposal, making additional records unnecessary.

We have reviewed the recordkeeping requirements and believe that these are the minimum needed to ensure compliance and that the requirements do not impose excessive costs. The costs of the recordkeeping requirements for 40 CFR part 60, subpart VVa, including the time required to enter and store additional information, are included in the information collection request (ICR) (see section V.B of this preamble).

C. How did EPA develop the final amendments to 40 CFR part 60, subparts VV and GGG?

The amendments to 40 CFR part 60, subpart VV are listed in Table 1 of this preamble. Most of the technical corrections for 40 CFR part 60, subparts VV and GGG were discussed in the preamble to the proposed amendments (71 FR 65302, November 7, 2006). Other technical corrections and amendments are the result of public comments, and these are discussed in detail in the responses to the applicable comments. For each amendment that is more significant than an editorial or grammatical correction, Table 1 to this preamble includes a reference to the rule language and a reference to the location of the detailed explanation.

TABLE 1.—SUMMARY OF FINAL AMENDMENTS TO 40 CFR PART 60, SUBPART VV AND RATIONALE FOR CLARIFICATIONS, ADDITIONAL COMPLIANCE OPTIONS, AND TECHNICAL CORRECTIONS

Citation	Explanation or location of explanation[1]	Amendment
Heading		Revised to clarify applicability of subpart.
60.480(b)		Revised to identify applicability to affected facilities that were constructed, reconstructed, or modified after January 5, 1981 and on or before November 7, 2006.
60.480(d)(2)		Clarified that design capacity refers to a chemical listed in 40 CFR 60.489.
60.480(d)(2)–(5)		Revised reference to nonexistent 40 CFR 60.482 to refer to 40 CFR 60.482–1 through 60.482–10.
60.480(e)(1)		Renumbered paragraph (e)(1) as (e)(1)(i) and paragraph (e)(2) as (e)(1)(ii); changed reference to paragraph (e)(2) to (e)(1)(ii).
60.480(e)(2)		Added paragraph that allows owners or operators to comply with 40 CFR part 60, subpart VVa as an alternative to 40 CFR part 60, subpart VV.
60.481	71 FR 65308, column 3	Corrected editorial errors in definition of "Capital expenditures."
60.481	71 FR 65307, column 2 and section 5.4.3 of RTC.	Added new definition for "Closed-loop system."
60.481	71 FR 65307, column 2 and section 5.4.3 of RTC.	Added new definition for "Closed-purge system."
60.481	Section 5.3.2 of RTC	Revised definition of "Connector."
60.481	Added missing word "the" before the word "atmosphere" and removed the word "rapid".	Revised definition of "First attempt at repair."
60.481	71 FR 65308, column 3 and updated the mailing address for ASME.	Revised definition of "Hard piping."
60.481	Section IV.A.2 of this preamble	Revised definition of "Process unit."
60.481	Section 5.9.3 of RTC	Revised definition of "Process unit shutdown."
60.481	71 FR 65308, column 1	Revised definition of "Repaired."
60.481	Section 3.2.1 of RTC	Added new definition for "Storage vessel."
60.481	71 FR 65307, column 3	Added new definition for "Transfer rack."
60.482–1(e)	Section 3.3 of RTC	Added paragraph (e) to address equipment in service less than 300 hours per year.
60.482–1(f)	71 FR 65304, column 3 and sections 5.6.1 and 5.6.2 of RTC.	Added paragraph (f) that allows less frequent monitoring of pumps and valves on batch process units that operate less than 365 days per year.
60.482–1(g)	Section IV.A.2 of this preamble	Added paragraph that clarifies inclusion of shared tanks in a process unit subject to this subpart.
60.482–2(a)(1)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for pumps that begin operation in light liquid service after the initial startup date for the process unit.
60.482–2(a)(2)		Added reference to 40 CFR 60.482–1(f) as an exception to the requirement for weekly visual inspections of pumps in light liquid service.
60.482–2(b)(2)	71 FR 65304, column 2, 71 FR 65306, column 1, and section 5.2.2 of RTC.	Added monitoring and repair requirements if weekly visual inspection of pumps in light liquid service indicates liquids dripping from pump seal.
60.482–2(c)(2)	71 FR 65307, column 1	Added examples of first attempt at repair practices for pumps in light liquid service.
60.482–2(d)		Editorial correction and clarification to address renumbering of paragraphs (d)(1) through (6).
60.482–2(d)(1)(ii)		Replaced first word "Equipment" with "Equipped."
60.482–2(d)(4)(i)		Renumbered paragraph (d)(4) as (d)(4)(i).
60.482–2(d)(4)(ii)	71 FR 65304, column 2, 71 FR 65306, column 1, and section 5.2.2 of RTC.	Added monitoring and repair requirements if weekly visual inspection of a pump equipped with dual mechanical seals indicates liquids dripping from pump seal.
60.482–2(d)(5)(i)		Removed "and" from end of sentence.

TABLE 1.—SUMMARY OF FINAL AMENDMENTS TO 40 CFR PART 60, SUBPART VV AND RATIONALE FOR CLARIFICATIONS, ADDITIONAL COMPLIANCE OPTIONS, AND TECHNICAL CORRECTIONS—Continued

Citation	Explanation or location of explanation[1]	Amendment
60.482–2(d)(5)(iii)		Added paragraph to specify how a leak is detected.
60.482–2(d)(6)	71 FR 65304, column 2 and 71 FR 65306, column 1.	Revised to clarify procedure and time allowed for repair of leaks.
60.482–2(e)		Revised to add "s" to the end of "no detectable emission."
60.482–3(a)	Section 5.3.5 of RTC	Added reference to exemption in 40 CFR 60.482–3(j).
60.482–3(j)	71 FR 65308, column 3	Editorial clarification of section and paragraph references.
60.482–5(a) and (b)	71 FR 65307, column 2 and section 5.3.5 of RTC.	Rearranged paragraphs within these two paragraphs and made editorial corrections to provide clarity.
60.482–5(b)(2)	71 FR 65307, column 2, and section 5.4.3 of RTC.	Added provision that containers part of a closed-purge system must be covered or closed when not being filled or emptied.
60.482–5(b)(3)	Section 5.4.1 of RTC	Added provision that gases remaining in the tubing or other apparatus once the closed-purge system valve(s) and sample container valve(s) are closed are not required to be collected or captured.
60.482–5(b)(4)–(b)(4)(iv)(A)–(C)	Rearranged paragraph numbering and made a few editorial clarifications.	Same as current paragraph (b)(4) except for editorial clarifications.
60.482–5(b)(4)(iv)(D)	Section 5.4.2 of RTC	Added provision for use of a waste management unit meeting the requirements of 40 CFR 61.348(a).
60.482–5(b)(4)(iv)(E)	Section 5.4.2 of RTC	Added provision for use of a device used to burn off-specification used fuel oil in accordance with 40 CFR part 279, subpart G.
60.482–6(a)(1)	Section 5.3.5 of RTC	Added reference to exemptions in 40 CFR 60.482–6(d) and (e).
60.482–7(a)(1)	Corrected section designations	Clarified current paragraph (a) to specify that valves must be monitored monthly except as provided in 40 CFR 60.482–7(f), (g), and (h); 40 CFR 60.482–1(c) and (e); and 40 CFR 60.483–1 and 2.
60.482–7(a)(2)(i) and (ii)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for valves that begin operation in light liquid service after the initial startup date for the process unit.
60.482–7(c)(1)(i)		Paragraph (c)(1) redesignated as paragraph (c)(1)(i).
60.482–7(c)(1)(ii)	71 FR 65307, column 3 through 71 FR 65308, column 1, and section 5.1.2 of RTC.	Added paragraph to allow an owner or operator to subdivide valves in a process unit.
60.482–8(a)(2)	Section 5.7 of RTC	Added clarification that audio visual olfactory indications of potential leaks should be eliminated within 5 calendar days of detection.
60.482–8(d)	71 FR 65307, column 1	Revised to require that first attempt at repair of pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and connectors must include best practices under 40 CFR 60.482–2(c)(2) and 40 CFR 60.482–7(e).
60.482–9(a)	Section 5.9.3 of RTC	Clarified that for repair that occurs during a process unit shutdown, monitoring to verify that repair must occur within 15 days after startup of the process unit.
60.482–9(f)	Section 5.9.3 of RTC	Added new paragraph for a leaking pump or valve for which a delay in repair is allowed.
60.483–1(d) and 60.483–2(b)(5)		Added reference to new 40 CFR 60.485(h) that provides more detailed explanation for calculating the percent of valves leaking.
60.483–2(a)(7)	71 FR 65307, column 1, and section IV.B.1 of this preamble.	Added clarification for valves that begin operation in light liquid service after the initial startup date for the process unit.
60.483–2(b)(7)		Added paragraph to specify that a new valve must be monitored according to 40 CFR 60.482–7(a)(2)(i) or (ii) before the provisions of 40 CFR 60.483–2 can be applied to the valve.
60.484(a)	71 FR 65308, column 3	Editorial correction.
60.484(b)(2)		Editorial clarification.
60.485(b)		Revised reference to nonexistent 40 CFR 60.482 to refer to 40 CFR 60.482–1 through 40 CFR 60.482–10.
60.485(e)	71 FR 65308	Clarified that the requirements apply to a piece of equipment.
60.485(e)(1) and (2)	Section 6.3 of RTC	Clarified to specify that light liquids are organic compounds.
60.485(g)(4)	Corrected exponents in equation	Corrected equation for the net heating value of the gas being combusted in a flare.
60.485(g)(5)		Added ASTM D6420–99 as an alternative to EPA Method 18.
60.485(h)	Section 5.1.4 of RTC	Added equation and clarifications for calculating percent of valves leaking.
60.486(e)(2)(ii)	Section 7.4 of RTC	Revised to allow an alternative to requiring a signature for the list of equipment with no detectable emissions.
60.486(e)(6)	Section 3.3 of RTC	Added recordkeeping requirements for equipment in VOC service less than 300 hours per year.
60.487(c)(2)(i), 60.487(c)(2)(iii), 60.487(c)(2)(iv).	These changes are related to rearranging of paragraphs in 60.482–2.	Corrected references to specific sections and other editorial corrections.

[1] RTC refers to *Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry and Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries. Background Information for Final Standards. Summary of Public Comments and Responses.* See Docket ID No. EPA–HQ–OAR–2006–0699.

IV. Summary of Comments and Responses

We proposed amendments to 40 CFR part 60, subpart VV and 40 CFR part 60, subpart GGG on November 7, 2006 (71 FR 65302). We published a NODA regarding OEL on July 9, 2007 (72 FR 37157). A total of 28 comment letters were received during the comment periods for the two notices. In response to these public comments, several changes were made in developing these final amendments and new standards. The major comments and our responses are summarized in the following sections. A summary of the remainder of the comments received during the comment period and responses thereto can be found in the docket for the final amendments and new standards (EPA–OAR–HQ–2006–0699).

A. Applicability

1. Affected Sources Under the Current NSPS

Comment: Numerous commenters objected to the proposed application of substantive new requirements to affected sources that became subject to 40 CFR part 60, subpart VV (or any of the subparts that reference subpart VV) on or before November 7, 2006 (hereafter referred to as "subpart VV sources"). Proposed provisions that these commenters considered to be substantive are: (1) Changes to the definition of process unit; (2) annual EPA Method 21 monitoring of OEL; (3) bypass monitoring requirements for closed vent systems to control devices; (4) calibration drift assessments; (5) initial monitoring requirements for pumps and valves; and (6) maintaining records of all monitoring results. The commenters argued that applying the new provisions to subpart VV sources is unlawful.

To address the issue of compliance dates, several commenters recommended that EPA amend 40 CFR part 60, subpart VV so that it applies only to existing sources and develop a new 40 CFR part 60, subpart VVa that applies to affected sources that commence construction, reconstruction, or modification after November 7, 2006.

In contrast, two commenters urged EPA to apply the proposed requirements to all existing SOCMI and refinery process units, and a third commenter recommended applying the proposed leak definitions for pumps and valves to all SOCMI and refinery affected sources. All of these commenters noted that existing facilities are more likely than new sources to have problems with leaks and, thus, should receive extra scrutiny.

Response: In this action, EPA has decided to include any new requirements in a new 40 CFR part 60, subpart VVa, consistent with the commenter's suggestions. The new standards in subpart VVa include lower leak definitions for pumps (2,000 ppm) and valves (500 ppm), monitoring of connectors, a calibration drift assessment, and expanded recordkeeping requirements. The proposed requirement to monitor bypass lines has not been included in the new standards because few facilities capture and vent equipment leak emissions to a control device. Additionally, most control devices would be subject to other standards. The proposed requirement to monitor OEL has not been included in the new standards because this requirement has been determined to not be cost-effective. The cost-effectiveness for SOCMI was found to be $3,800/ton for 25 tons/yr of VOC emission reductions. For petroleum refineries, the cost-effectiveness was found to be $14,700/ton for 2.4 tons/yr of VOC emission reductions. Taking the low emission reductions into consideration, the Agency has determined that monitoring OEL is not BDT. As discussed in sections IV.B.1 and IV.A.2 of this preamble, the initial monitoring requirements for new pumps and valves and the changes to the definition of "process unit" are not new standards, and these changes are retained in the final amendments to 40 CFR part 60, subpart VV as well as being included in the new subpart VVa.

Instead of referencing 40 CFR part 60, subpart VVa from 40 CFR part 60, subpart GGG, we decided to create a new 40 CFR part 60, subpart GGGa that applies to new petroleum refining affected sources. This new subpart GGGa references all of the new standards in subpart VVa except for the monitoring requirements for connectors. Reasons for the differences in standards between subparts VVa and GGGa are described elsewhere in this preamble.

Sources subject to 40 CFR part 60, subpart DDD and 40 CFR part 60, subpart KKK, and sources subject to the Refinery NESHAP (40 CFR part 63, subpart CC), but not subject to 40 CFR part 60, subparts VV or GGG, are not required to comply with 40 CFR part 60, subpart VVa at this time.

While we understand there is a concern that existing sources are more likely to leak, there is no provision in section 111 of the CAA that allows us to retroactively apply new standards to sources already subject to the NSPS. EPA agrees with the statements made by the commenters that relate to the application of new requirements under NSPS to existing sources. Section 111 of the CAA does state that NSPS will apply only to new, reconstructed, or modified sources after the date of proposal. The authority to regulate existing sources under section 111(d) of the CAA does not authorize EPA to regulate criteria pollutants or precursors to such pollutants. Therefore, we have not included any new requirements for existing sources in the final amendments to 40 CFR part 60, subpart VV and subpart GGG. These requirements will apply only to sources that commence construction, reconstruction, or modification after the November 7, 2006 proposal date.

2. Definition of Process Unit

Comment: Numerous commenters expressed concern that the revised definition of process unit is inconsistent with EPA's original intent when 40 CFR part 60, subpart VV was proposed (i.e., it expands the scope), that it complicates compliance, or that it creates additional confusion. One commenter stated that under the existing definition, a component is part of a process unit based on its function, not whether it is classified as a specific type of equipment. The commenter indicated that since 1981, sources and their regulators have decided what constitutes a process unit based on what equipment serves the functions described in the definition, and this process unit may be different from process units under other rules.

After reading the preamble discussion of the proposed change, one commenter expressed concern that the proposed definition inadvertently includes valves and other equipment on storage tanks. Other commenters objected to the inclusion of all feed, intermediate, and product storage vessels and transfer operations in the definition because the following discussion from the original rulemaking notice for 40 CFR part 60, subpart VV (46 FR 1139, January 5, 1981) makes it clear that EPA's original intent was to include storage in the process unit only if it is within the battery limits of the process:

"A process unit is specifically defined as equipment assembled to produce one or more of the chemicals listed in proposed appendix E which can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the final product. A process unit includes intermediate storage or surge tanks and all fluid transport equipment connecting reaction, separation, and purification devices. All equipment within the battery limits is included. However,

offsite fluid transport and storage facilities are excluded."

Several commenters described ways the proposed change could complicate compliance. For example, two commenters indicated that it would increase the difficulty of tracking equipment, process units, and applicable requirements at refineries where the storage and transfer areas are consolidated into "logistical process units" that support numerous process units, particularly when storage tanks are shared by multiple process units. One commenter added that it may also either restrict the ability of a facility to use its tanks as needed, because they will have been forced into an arbitrary association with a given unit, or create a useless recordkeeping exercise each time a tank switches contents or services a different process. To avoid immediate compliance problems for affected sources that are currently subject to 40 CFR part 60, subpart VV, a commenter requested that existing facilities be allowed 180 days after promulgation of the amendments so that they will have time to include the additional equipment in the applicable LDAR programs. Commenters also noted that the rule should clarify how to assign storage vessels and transfer racks that are shared by multiple processes; they suggested using language in the HON and the Refinery NESHAP as a guide. One commenter stated that EPA should clarify that a compressor is still a separate affected facility from the group of equipment in a refinery process unit under 40 CFR part 60, subpart GGG.

Response: The first sentence in the definition of "process unit" in the final amendments and new standards includes the term "components" as in the existing definition rather than "equipment" as in the proposed amendments. This correction distinguishes major process vessels such as reactors and distillation units (i.e., "components") from pieces of equipment, as defined in the rule, that are subject to the LDAR standards. In addition, the last sentence of the proposed definition has been replaced to reference "equipment" as it is defined in the applicable subpart. This change should address concerns that compressors at petroleum refineries are separate affected sources. Otherwise, there are no differences between the proposed and final definitions.

The amended definition of process unit clarifies EPA's original intent and is consistent with the language provided by the commenters from the January 1981 rulemaking. It is clear from the 1981 rulemaking that all equipment that is located within the battery limits is included as part of the process unit. Likewise, there is no question that any fluid transport and storage facilities located outside of the facility property are not included. However, the 1981 language also states that a process unit includes storage tanks and all fluid transport equipment. There is no specification that these components are only included if within the battery limits. There has been confusion in the past regarding the inclusion of components outside of the battery limits but within the property of the facility. To clarify this issue, EPA previously issued formal guidance (see April 6, 1994 letter from John Rasnic to Raymond Hiley in Docket ID No. EPA-HQ–OAR–2006–0699).

We agree that the determination of whether a particular tank is a storage tank, feed tank, or intermediate tank and part of a process unit must be done on a site-specific basis, dependent on how the tank functions within a particular plant site. The physical proximity of the storage tank to the other processing equipment within a process unit is not a sole determinate in establishing whether a storage tank is part of the process or not.

The final amendments and new standards include provisions for assigning a shared storage tank to a specific process unit for the purposes of an LDAR program. The owner or operator will need to determine what process units the storage tank is associated with. They will then determine which process unit, or combination of units subject to the same subpart, has the greatest annual quantity of stored materials in that tank. The subpart that the process unit (or combination of units subject to the same subpart) associated with the greatest use of that tank is subject to will be the applicable subpart for the tank. The process unit, which is subject to the same subpart as the tank, with the greatest annual quantity of stored materials in that tank will be the process unit the tank is assigned to. If a tank is shared equally between two process units that are subject to 40 CFR part 60 standards, the process unit with the most stringent requirements will be the unit the tank is assigned to. For example, if the predominant use of a storage tank is to service a process unit subject to 40 CFR part 60, subpart VV, that storage tank is a part of that process unit and subject to subpart VV and the equipment must be monitored at a leak definition of 10,000 ppm.

Comment: Two commenters wondered how the change in the definition of "process unit" would affect modification and reconstruction determinations. One commenter expressed concern that it will make it easier for an owner or operator to add new equipment to an existing process unit without triggering the threshold that would make the process unit a new affected source. The second commenter noted that including feed tanks in the definition changes the basis for the modification and reconstruction cost test and asked how changes that have already occurred should be handled in this determination.

Response: Since the amended definition is a clarification of our original intent with respect to applicability of 40 CFR part 60, subpart VV to equipment on storage tanks and lines between storage tanks and processing equipment, there will be no impact on modification or reconstruction determinations. If a facility believes that they have performed a previous modification or reconstruction determination in error, they should contact their delegated authority.

B. Standards

1. Initial Monitoring of Pumps and Valves

Comment: Numerous commenters objected to the proposed clarifications for the initial monitoring of pumps and valves that are installed after the startup of the process unit. Several commenters stated that the proposed provisions are significant new requirements and cannot be finalized without demonstrating that they represent BDT and giving the public a chance to comment on the supporting analyses. Two commenters indicated that they are unaware of any SOCMI facilities that routinely monitor new pumps and valves within 1 month of startup, and the supporting documentation for the proposal contains no data from SOCMI sources. Several commenters requested that EPA allow at least 90 or 180 days because complying within 1 month would be burdensome, particularly for facilities that use third party contracting for monitoring; 1 month is not enough time to integrate new equipment into the monitoring program; 40 CFR 60.8 of the General Provisions provides 180 days for performance tests; and EPA has not explicitly stated how monitoring within 1 month will reduce emissions. Two commenters noted that EPA's justification of the requirement for valves is that it is needed to ensure that the valve does not leak until its first quarterly or annual monitoring, but no data were presented to show such leakage occurs or is a problem. The

commenters also requested that when establishing the final requirement for initial monitoring of pumps and valves, the timeframe be given in days, not months.

In contrast with the above comments, three commenters supported the proposed language or more stringent requirements. One of these commenters recommended monitoring new pumps within 1 month after installation to minimize the time period for potential leaks. A second commenter recommended that monitoring be required even sooner after installation. This commenter also questioned why a clarification of the requirements for pumps was needed because the preamble to the proposed amendments did not explain how industry currently handles new pumps and why that practice is a problem. This commenter also objected to the second sentence in 40 CFR 60.482–7(a)(2) because it means valves added to a process would not have to be monitored for 2 consecutive months before implementing skip monitoring, which is less stringent than the requirements for valves in an entirely new process.

Response: The language pertaining to the initial monitoring of new pumps and valves was added to the final amendments and new standards to clarify how new equipment should be handled in the existing monitoring schedule, but these are not new requirements. Under the current rule, pumps are to be monitored monthly whether they are newly installed or installed prior to the process unit becoming an affected source (40 CFR 60.482–2(a)(1)). It is unclear to us how a facility is complying with the requirements for pumps if they are not being monitored monthly. Also under the current rule, all new valves are to be monitored monthly (i.e., base period) until two consecutive monthly readings are found below the applicable leak definition, at which point the valve may be monitored quarterly until a subsequent leak is found (40 CFR 60.482–7(a)). Finding of a subsequent leak reverts the monitoring back to monthly until two consecutive monthly readings below the applicable leak definition is reestablished. The current rule also has an alternative standard for valves at 40 CFR 60.483–2 which allows for longer "skip" periods based on continued performance. Again, we are uncertain that a facility is complying with the requirements for these valves if they are not monitoring new valves within the first month of operation.

However, to provide operational flexibility, we have decided to add an option for newly installed valves in the final amendments and new standards. If a new valve is placed into service during a skip period, the source has the option to either monitor the valve on the monthly schedule and establish the skip period for that valve, or count the valve as a leaker in the percent leaking calculation. If the result of the percent leaking calculation remains below 2.0 percent with the new valve counted as a leaker, the owner or operator must monitor the new valve by the next scheduled skip period or within 90 days, whichever comes first. We have stated the timeframe for these requirements in days instead of months in the final amendments and new standards (30 days for pumps and either 30 or 90 days for valves, depending on whether the owner or operator is complying with the skip monitoring option).

Comment: Three commenters requested clarification of the applicability of the proposed initial monitoring provision. Two commenters stated that the term "placed in service" clearly implies that pumps and valves should follow the initial monitoring schedule after they are initially installed. However, the term "placed in service" also implies that previously installed pumps and valves should be monitored after they have been placed back into service after maintenance, turnarounds, and repairs. Both commenters recommended changes to clarify that only newly installed or rebuilt pumps and valves should be monitored following the schedule for initial monitoring.

Response: The initial monitoring requirement is for pumps and valves that come into VOC service through a process expansion or replacement not associated with a repair (e.g., preventative maintenance). These pumps and valves may be newly purchased or they may be equipment that was previously in service elsewhere in the process unit or facility. A newly purchased, rebuilt, repaired, or remanufactured pump or valve installed to repair a leaking pump or valve is not subject to the initial monitoring requirements. Instead, the pump or valve should be monitored to verify that there is no longer a leak (as required in the definition of "repaired") and may be subsequently monitored according to the schedule that applied to the previously leaking pump or valve.

To further clarify this issue, we have revised 40 CFR 60.482–2(a)(1), 40 CFR 60.482–7(a)(2), 40 CFR 60.483–2(b)(7), 40 CFR 60.482–2a(a)(1), 40 CFR 60.482–7a(a)(2), and 40 CFR 60.483–2a(b)(7).

2. Weekly Pump Inspections

Comment: Numerous commenters addressed the proposed changes to the requirements for weekly inspections of pumps. One commenter supported the proposed changes, including the changes to 40 CFR 60.482–2(b)(2)(ii), which states that if a visible liquid leak is found, it may be repaired by removing the visible indication of the leak. Based on the commenter's experience, a visible leak does not always indicate a regulatory leak. Another commenter agreed with the clarification allowing facilities to determine if a leak is emitting VOC using EPA Method 21 because it will help to focus repairs on pumps leaking hydrocarbons.

Three commenters did not support the proposed changes to the weekly inspection requirements. Two of these commenters disagreed with EPA's conclusion that the existing requirements are overly burdensome. According to one commenter, an operator should be required to make a showing of an undue burden; simply stating that an operator may have to conduct more inspections and repair more leaks than absolutely necessary does not demonstrate an undue burden. Two commenters noted that eliminating evidence of liquids dripping does not guarantee that the pump is no longer leaking VOC. As a result, these two commenters stated that monitoring should be required after eliminating evidence of liquids dripping to verify that repair was successful. Even if liquids dripping are not process fluid, one commenter noted that the liquid is probably either seal barrier fluids or condensate from a pump jacket used for temperature control. Regardless of the cause or fluid, one commenter noted that any liquid dripping may be a first sign of a potential maintenance problem that is best addressed as soon as possible as a matter of good operational practice as well as good environmental practice.

Response: The aim of the LDAR program is to find and repair leaks of VOC. In some instances, the liquids found dripping from pumps are not VOC-containing liquids or otherwise would not meet the leak definition. In these cases, the pump would not be required to be repaired under the LDAR program. Adding the option to monitor allows the owner or operator to determine if the liquids dripping constitute a VOC leak, thus focusing their efforts on reducing VOC emissions. If the owner or operator chooses not to monitor the pump to determine if the liquids dripping are a VOC leak, the liquids dripping from the pump are

classified as a VOC leak. The leak must be repaired by eliminating indications of liquids dripping, and the appropriate recordkeeping and reporting requirements for leaks apply to that pump. We agree with the commenter that persistent liquids dripping may indicate an operation problem that should be addressed by maintenance. If indications of liquids dripping are noted for one pump during multiple weekly inspections, we encourage facilities to ensure that the pump is operating properly. We do not agree that more frequent EPA Method 21 monitoring is necessary because pumps are currently monitored on a monthly basis and the additional monitoring would not result in substantial emission reductions.

3. Connectors

Comment: In response to our request for comments regarding whether connector monitoring should be required, three commenters expressed support for it, and nine commenters opposed it. Supporters argued that significant reductions could be achieved at a reasonable cost. Opponents argued that the impacts analysis overstated the emission reductions and underestimated the costs. According to two of the opponents, EPA did not require connector monitoring in the MON (40 CFR part 63, subpart FFFF) because the cost was determined to be unreasonable. One commenter indicated that monitoring as proposed is not worth the effort because most connectors are adjacent to valves, and these connectors are investigated and monitored when valve monitoring results in abnormal readings.

Six commenters objected to some of the assumptions we used to estimate equipment leak emissions. Some of these commenters stated that our emission reduction estimates were high because we used assumed leak frequencies and leak rates from *Protocol for Equipment Leak Emission Estimates* (EPA–453/R–95–017, November 1995) (the Protocol document) rather than actual field data. One commenter added that these data often predict emissions an order of magnitude higher than the actual emissions. Another commenter submitted a report that concluded there is no statistical difference in average leak rates between initial and subsequent monitoring at HON and MON units. This commenter also questioned the assumption that all leaking connectors would be successfully repaired after each monitoring cycle. Several commenters objected to estimating emissions based on leak rates equal to 170 percent of actual observed leak rates. One commenter noted that one refinery monitored more than 22,000 connectors and found only four leaking at greater than 1,000 ppm. Less than 0.5 percent of the connectors in process units subject to the HON at another refinery were leaking at greater than 500 ppm.

Four commenters objected to various elements in the cost estimates. These commenters noted that more connectors than valves are difficult to monitor, and the cost analysis did not include the cost for the additional labor and equipment needed to monitor these connectors. One commenter stated that the unit cost for monitoring connectors should be more than $1.50 per connector because the time required to monitor a connector is longer than for other types of equipment. The increased monitoring time is the result of several factors: (1) The distance that must be traversed per component is greater; (2) connectors often are in hard-to-reach locations, requiring the operator to squeeze through small spaces, often having to remove the monitor backpack; and (3) connectors tend to be spread out and are hard to find. In addition, this commenter noted that recordkeeping for connectors is more burdensome and complicated than for valves. Connectors are not typically shown on process and instrumentation drawings, making them difficult to find. The commenter stated that our estimate of 10 hours per year to complete administrative tasks and reports associated just with monitoring connectors is inadequate. Finally, the commenter noted that our cost estimates omit the cost of a data collection system or monitoring device rental; the commenter estimated these costs to be $14,500 for data collection systems and $135 per day for monitor rental. The commenter stated that even if a facility has a data collection system, additional licenses are needed to add connectors. Another commenter stated that rationale for requiring monitoring at SOCMI facilities does not apply to natural gas processing plants; thus, this commenter requested that an impact analysis be performed to address natural gas processing plants before making that industry subject to connector monitoring.

In contrast with the above comments, three commenters were in favor of adding connector monitoring to the rule. One commenter suggested that connectors be monitored annually or biennially because they have significant leak potential that would go undetected without monitoring. Regardless of the uncertainties in the leak rates and emissions factors, another commenter stated that connector monitoring should be required because emissions reductions can be achieved at a relatively low cost. The third commenter supported a requirement to monitor connectors at SOCMI sources because it is technically feasible, our impacts analysis shows it is economically feasible, and it would achieve greater reductions than the proposed amendments for pumps and valves. According to this commenter, more accurate emissions data in the impacts analysis is unnecessary because emissions inventories based on monitoring data typically show emissions that are higher than the emissions estimated using engineering calculations and emission factors, which would only strengthen the argument for monitoring. This commenter also argued that refineries should be required to monitor connectors because such monitoring is technically feasible, it is already required for some refineries in Texas and California, and our impacts analysis showed connectors at refineries were more likely to leak than connectors at SOCMI sources.

Response: Both the HON and MON regulations are based on emissions of hazardous air pollutants (HAP). NSPS are based on VOC emissions (both HAP and non-HAP). When calculating the cost-effectiveness for NSPS, there are more possible emission points and a higher percentage of regulated pollutants in the emissions because the analysis is not based only on HAP emissions. This results in a different conclusion for cost-effectiveness than in the HON or MON.

The commenter's claim that we used the leak frequencies and leak rates in the Protocol document for the SOCMI analysis is incorrect. We used the same initial leak frequency (0.36 percent) as in the MON analysis. We also started with the same initial leak rate (0.000186 kilogram (kg)/hour (hr)/connector), but we then escalated it in the same manner that leak rates for pumps and valves were escalated. The leak frequencies and leak rates in the MON analysis were based on industry-supplied data for almost 165,000 connectors. We decided not to use the leak rate data in the report supplied by one of the commenters because it contains a smaller data set (29,000 connectors), and it is possible that these data are also included in the larger data set. However, our assumption that the subsequent leak frequency is the same as the initial leak frequency is consistent with the conclusion in the report cited by the commenter.

The new standards in 40 CFR part 60, subpart VVa include connector monitoring because we have determined

that it is cost-effective at SOCMI sources. The specific monitoring provisions are the same as in the Generic MACT. However, we have determined that connector monitoring is not cost-effective for petroleum refineries. Therefore, an exemption from the provisions for connector monitoring has been included in 40 CFR part 60, subpart GGGa. At this time, we are not reviewing 40 CFR part 60, subpart KKK; therefore, no cost analysis has been performed on connector monitoring for these sources, and natural gas processing plants subject to 40 CFR part 60, subpart KKK are not subject to the connector monitoring requirements in subpart VVa.

After reviewing the comments, we revised the impacts analyses to include two of the suggested changes to the cost estimates. First, we corrected an error, which increased the estimated time for reporting and administrative activities related to connectors from 10 hr/year (yr) to 50 hr/yr. Second, although we are not aware that monitoring contractors charge a higher fee for connectors than for other equipment, we accept the commenter's suggested fee of $2.50/connector because the $1.50/connector that we used in the original analysis may be closer to the low end of the range than the average. We disagree with the other changes suggested by the commenters. Details of the revised impacts analysis, including rationale for not making the suggested changes, are provided in the docket (Docket ID No. EPA–HQ–OAR–2006–0699).

C. Test Methods and Procedures

Comment: Two commenters supported the requirement to conduct calibration drift assessments and remonitor when the assessment shows a negative drift of more than 10 percent. Other commenters acknowledged that a drift check is a good practice or a useful quality assurance/quality control (QA/QC) tool, and one commenter agreed with EPA's rationale for requiring drift checks.

On the other hand, four commenters opposed the drift check requirement, saying it is unnecessary and provides no environmental benefit. One of these commenters added that monitoring instruments such as the Foxboro TVA 1000 FID/PID or Foxboro TVA 1000B are quite stable over a 24-hour period, and EPA has not presented data or an analysis showing the need for calibration assessments. A second commenter noted that instruments typically drift in a positive direction. A third commenter argued that a drift check and re-monitoring is a futile effort to make the equipment leak monitoring method more accurate than was originally intended and than the instruments can achieve because of the following: (1) The Foxboro TVA 1000B instrument accuracy is only ±25 percent for readings between 1 and 10,000 parts per million by volume (ppmv); (2) a response factor as high as 10 is allowed for compounds of interest; (3) the 10 percent drift limit is inconsistent with the level of the instrument's accuracy allowed by EPA Method 21; and (4) leaking equipment does not emit a constant concentration. In addition, this commenter noted that drift checks conducted to satisfy consent decrees have shown only about 10 percent of instruments drift more than 10 percent every 2 to 3 weeks, and the release of calibration gases would be considered a negative environmental impact.

Response: We are removing the requirement for a post-test calibration drift assessment from the final amendments but retaining the requirement for the new subparts. Post-test calibration drift assessments constitute good practice and are a useful QA/QC tool to validate the proper operation of the monitor during the monitoring period and, hence, the measurement data. The requirement for a calibration drift assessment is not an effort to make the method more accurate than was originally intended, but is intended as an additional quality assurance check.

Comment: Numerous commenters considered the proposed re-monitoring requirement to be excessive. Instead of re-monitoring when instrument readings are greater than 20 percent of the applicable leak definition, two commenters suggested changing the threshold to 75 or 80 percent. Another commenter suggested using a percentage equal to 100 minus the percent of negative drift. If re-monitoring is required when negative drift occurs, two commenters stated that an owner or operator should also have the option of re-monitoring when positive drift occurs and reclassifying leakers as nonleakers. One of these commenters also suggested four additional changes: (1) Because monitoring shifts may vary, require the assessment at the end of each day rather than the end of each monitoring shift; (2) allow an unlimited number of calibration drift assessments per day; (3) determine drift relative to the most recent calibration value rather than the initial value for the day; and (4) specify that a drift assessment is not required after re-monitoring.

Response: We agree with the suggestion to establish the retest criterion at the percentage equal to 100 minus the percent of negative drift and are modifying the requirement accordingly. We also agree with the commenter's suggestion that an owner or operator should have the option of re-monitoring when positive drift occurs and reclassifying leakers as non-leakers when the re-monitoring after recalibration due to positive drift indicates the previously identified leak is below the leak definition concentration. We agree that monitoring shifts may vary, and the new standards require the assessment at the end of each day rather than the end of each monitoring shift. The new standards allow an unlimited number of calibration drift assessments per day, and we have clarified that the drift assessment is determined relative to the most recent calibration value rather than the initial value for the day. We do not agree that a drift assessment is not required after remonitoring and have not made this change to the new standards.

D. Recordkeeping and Reporting

Comment: One commenter supported the proposed requirement to keep records of all monitoring results because more and better data can only help facility owners and operators efficiently and effectively address the problem of fugitive emissions. Another commenter stated that records of weekly pump inspections are needed to make the inspection requirement enforceable. On the other hand, many commenters either opposed or urged us to reconsider the need for one or more of the following proposed recordkeeping requirements: (1) Results of all monitoring events; (2) time of each monitoring event; (3) information related to the proposed initial monitoring requirement for pumps and valves added to a process unit; (4) results of the proposed monitoring of OEL; (5) information related to the proposed requirement to monitor bypass lines; (6) results of calibration drift checks; and (7) results of weekly pump inspections.

Several commenters stated that the additional recordkeeping would be burdensome and either would not improve the rule's effectiveness or is excessive relative to any minimal improvement in performance. In addition, one commenter stated that the proposal preamble did not adequately explain how we estimated the cost of the additional recordkeeping and reporting for SOCMI sources to be $369,000/yr, and another stated that the proposal preamble did not explain why the current monitoring requirements are not sufficient to verify that monitoring was performed. According to one commenter, recording the time of

monitoring has hindered many programs and reduced productivity, and the additional records will generate an administrative backlog of data and create issues with storage and accessibility. Although this commenter agreed that the proposed records can be useful in verifying quality control of the LDAR program, the commenter asserted that a more cost-effective way to achieve quality control is to physically monitor the program. Furthermore, this commenter stated that by requiring the records, we are specifying the means by which a facility must implement the LDAR program rather than outlining the performance standard. Another commenter expressed concern that the additional recordkeeping exposes facilities to the potential of incurring deviations for records that serve no purpose.

Response: As stated in section III.B of this preamble, the recordkeeping requirements in the final amendments and new standards are authorized by section 114 of the CAA. We have made significant changes to the proposed recordkeeping requirements as a result of the changes made to the scope and applicability of the standards. Because the final amendments to 40 CFR part 60, subparts VV and GGG include only clarifications to existing requirements, burden reducing provisions, and new compliance options, no changes or additions to the recordkeeping requirements in subpart VV or GGG are needed to document and/or enforce these amendments. The recordkeeping requirements apply to the new standards (40 CFR part 60, subparts VVa and GGGa), as proposed, with a few exceptions. First, we removed the requirement to record the time of each monitoring event because the total number of pieces of equipment that are monitored each day should be sufficient for evaluating the ability of an operator to properly perform EPA Method 21. Second, records of information on bypass lines are not required because the new subpart does not include the requirement to monitor bypass lines. Third, because sources subject to subpart GGGa are not required to comply with the monitoring requirements applicable to connectors, the associated recordkeeping requirements do not apply to those sources. CAA section 114 specifically provides that we may have access to and copy any records and inspect any monitoring equipment and compliance method.

E. Burden Estimates

Comment: According to one commenter, the burden impact analyses of the proposed new recordkeeping and reporting requirements as presented in the preamble and docket do not comply with the ICR requirements of the Paperwork Reduction Act (PRA). The proposed new requirements of concern to the commenter are the requirements to keep records of information for all monitoring events, the time of each monitoring event, the time a new pump or valve is placed in service and results of new monitoring requirements for such pumps and valves, results from the new monitoring requirement for OEL, results of the new calibration drift checks, and results of weekly pump inspections. Another commenter also stated that the ICR requirements in the PRA were not met for recordkeeping and reporting associated with the proposed initial monitoring requirement for valves. A third commenter expressed a general concern that the proposed recordkeeping requirements may not meet the administrative requirements for proposing new NSPS.

One commenter noted several specific deficiencies and concerns with the burden impact analyses. First, it is not clear if all of the proposed new requirements are addressed in the ICR for sources subject to NSPS 40 CFR part 60, subpart GGG because the ICR does not discuss the incremental effects of the new requirements. Second, the ICR for SOCMI sources appears to address impacts only for those sources that elect to comply with the CAR option, not those that would comply directly with 40 CFR part 60, subpart VV. Third, no ICR analyses were provided for sources that are subject to other rules that reference subpart VV (i.e., NSPS subparts DDD and KKK of 40 CFR part 60, and the Refinery NESHAP). Fourth, the available analyses appear to address burden impacts only for sources that become subject to subparts VV and GGG in the future, but the proposed new requirements also would apply to sources that are currently subject to subpart VV or any of the rules that reference it. Fifth, even if some facilities voluntarily collect some of the records of concern, a requirement making their collection mandatory is still subject to the PRA, Regulatory Flexibility Act, and Executive Order 12866. Sixth, the commenter noted that the claim in the preamble that records of all monitoring events would be "useful" is not a legal basis for imposing the recordkeeping requirement. Seventh, if the total burden for all of the sources exceeds $100 million per year, additional review is triggered under other laws and Executive Order 12866. Based on the lack of analyses, the commenter stated that proposed recordkeeping and reporting requirements cannot be imposed on any sources, except perhaps new sources subject to subpart GGG, without additional proposal notice and opportunity for public comment.

Response: We disagree with the conclusions drawn by the commenters regarding the availability of the ICR. Document number EPA–HQ–OAR–2006–0699–0038 is the ICR associated with the CAR and all subparts that reference the CAR. This supporting statement displays the burden for sources that opt to comply with the CAR and for sources that opt to comply with their own referenced subpart, including 40 CFR part 60, subpart VV. For reference, pages 2–3, 6–7, 12–16, 33, 53, 77, and 112 all provide information specific to 40 CFR part 60, subpart VV.

For the final amendments and new standards, we have made adjustments to the supporting statements for all subparts involved. The burden associated with the amended 40 CFR part 60, subpart VV and the new 40 CFR part 60, subpart VVa is included in the supporting statement for the CAR and all other referenced subparts. The burden associated with the amended 40 CFR part 60, subpart GGG and the new 40 CFR part 60, subpart GGGa is included in the supporting statement that originally just supplied information for subpart GGG.

Because this particular rulemaking did not evaluate sources subject to 40 CFR part 60, subparts DDD and KKK or the Refinery NESHAP, we have not included any changes to the associated ICR for these subparts.

V. Summary of Cost, Environmental, Energy, and Economic Impacts

In setting standards, the CAA requires us to consider alternative emission control approaches, taking into account the estimated costs and benefits, as well as the energy, solid waste, and other effects. We are presenting estimates of the impacts for the 500 ppm leak definition for valves and the 2,000 ppm leak definition for pumps in 40 CFR part 60, subparts VVa and GGGa and connector monitoring in subpart VVa. The final amendments are clarifications to the existing subpart VV and subpart GGG to 40 CFR part 60; they have no associated emission reduction impacts. The cost, environmental, and economic impacts of the new standards are expressed as incremental differences between the impacts of SOCMI and petroleum refining process units complying with the new subparts and the current NSPS requirements (i.e., baseline). The impacts are presented for SOCMI and petroleum refining process

units constructed, reconstructed, or modified over the next 5 years. The analyses and the supporting documentation referenced below can be found in Docket ID No. EPA–HQ–OAR–2006–0699.

EPA estimates that there are no significant energy or secondary environmental impacts as a result of the new standards. The new standards are changes to work practice requirements and do not require changes to equipment or control devices. Therefore, use of fuel or electricity is not expected to increase significantly as a result of the new standards. Likewise, the new standards do not require physical changes that have the potential to increase wastewater or solid waste from SOCMI or petroleum refinery process units.

A. What are the impacts for SOCMI process units?

The methodology used to estimate impacts for the lower leak definitions for pumps and valves in the new 40 CFR part 60, subpart VVa is essentially the same as the methodology described in section VI.A of the preamble for the proposed amendments (71 FR 65311, November 7, 2006). There are, however, a few changes in the assumptions. We adjusted the estimates of baseline emissions and monitoring frequencies for new, modified, and reconstructed process units not subject to the HON, the MON, or the Ethylene NESHAP to better reflect baseline conditions.

In addition, we added emission reduction and cost impacts for the monitoring of connectors. The analysis completed for the proposed amendments to 40 CFR part 60, subpart VV was documented in a technical memorandum (EPA–HQ–OAR–2006–0699–0035). Based on the leak frequencies obtained from *Revised MACT Floor, Regulatory Alternatives, and Nationwide Impacts for Equipment Leaks at Chemical Manufacturing Facilities* (EPA–HQ–OAR–2003–0121–0004) at a leak definition of 500 ppm, we estimated that connectors would be monitored once every 4 years. SOCMI process units subject to the HON are already required to monitor connectors, so the baseline impacts for process units subject to these standards were equivalent to the impacts of the new standards. The methodology did not change for the analysis of the impacts for connectors subject to the new subpart VVa of 40 CFR part 60.

Based on the assumptions described above, we estimate that the new standards will reduce emissions of VOC about 325 tons/yr from the baseline. The estimated increase in annual cost, including annualized initial costs, is about $821,000. The cost-effectiveness is about $1,700 per ton of VOC removed. The estimated nationwide 5-year incremental emissions reductions and cost impacts for each of the new standards are summarized in Table 2 of this preamble.

TABLE 2.—NATIONAL EMISSION REDUCTIONS AND COST IMPACTS FOR SOCMI UNITS SUBJECT TO STANDARDS UNDER SUBPART VVA OF 40 CFR PART 60

[5th Year After Proposal]

Requirement	Annual emission reductions, tons/yr	Total initial cost, $million	Annualized cost, $thousand/yr	Recovery credit,[1] $thousand/yr	Total annual cost, $thousand/yr	Cost-effectiveness, $/ton
Lower leak definition for valves and pumps	94	0.15	41	77	−36	−380
Monitor connectors	230	3.1	780	190	590	2,500
Total	325	3.25	821	270	554	1,700

[1]Value of recovered product is $818/ton.

B. What are the impacts for petroleum refining process units?

The methodology used to estimate impacts for the new 40 CFR part 60, subpart GGGa is essentially the same as the methodology described in section VI.B of the preamble for the proposed amendments (71 FR 65311). There are, however, a few changes in the assumptions. For example, we originally assumed that the leak definitions in the Refinery NESHAP for valves and pumps on new sources since July 14, 1994, are equivalent to the leak definitions in 40 CFR part 60, subparts VVa and GGGa. However, the leak definitions in subparts VVa and GGGa are, in fact, more stringent than the Refinery NESHAP (proposed amendments at 72 FR 50716, September 4, 2007, did not include any changes to the equipment leak standards). Therefore, process units subject to both standards will comply with the leak definitions in subpart GGGa, so we revised the analysis of the impacts for the promulgated amendments to include the impacts for sources subject to both the Refinery NESHAP and subpart GGGa. We also adjusted the estimates of baseline emissions and monitoring frequencies for process units not subject to a consent decree. The revised impacts analysis is described in detail in Docket ID No. EPA–HQ–OAR–2006–0699.

We estimate that the new standards will reduce emissions of VOC about 13 tons/yr from the baseline. The estimated increase in annual cost, including annualized initial costs, is about $26,000. The cost-effectiveness is about $1,600 per ton of VOC removed. The estimated nationwide 5-year incremental emissions reductions and cost impacts for the new standards are summarized in Table 3 of this preamble.

TABLE 3.—NATIONAL EMISSION REDUCTIONS AND COST IMPACTS FOR PETROLEUM REFINERY UNITS SUBJECT TO STANDARDS UNDER SUBPART GGGa OF 40 CFR PART 60

[5th Year After Proposal]

Requirement	Annual emission reductions, tons/yr	Total initial cost, $thousand	Total annual cost, $thousand/yr	Recovery credit,[1] $thousand/yr	Total annual cost, $thousand/yr	Cost-effectiveness, $/ton
Lower leak definition for valves and pumps	13	24	26	7	19	1,600

[1]Value of recovered product is $545/ton.

C. What are the economic impacts?

An economic impact analysis was performed to compare the control costs associated with producing a product at petroleum refineries and various types of SOCMI facilities to the average value of shipments from such facilities. Since we are unable to associate projected control costs with specific facilities, we examined two polar cases for each industry, (1) a worst-case and (2) a best-case scenario. For the SOCMI, the polar cases are: (1) No more than eight complex process units located at a single facility and (2) no more than one process unit per facility. For petroleum refineries, the polar cases are: (1) All of the affected process units associated with one facility in the industry and (2) no more than one affected process unit at any given facility. In all cases, the magnitude of the costs is quite small. The only scenario for which the control costs reach 0.3 percent of the facility value of shipments is if an average ethyl alcohol manufacturing facility (in terms of value of shipments) experienced the worst case scenario of 8 complex processing units requiring control. Therefore, while the distribution of costs to small entities is unknown, no significant impact is expected for facilities of any size. The impact of the regulation on prices and profitability depends on the extent that the costs of control are passed on in the form of higher prices or absorbed by the facility. Because the costs are so small, any price increases or loss of profit would be quite small. No significant impact is expected as a result of the final amendments or the new standards of performance for equipment leaks of VOC for the petroleum refining industry and SOCMI.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The final amendments to the standards of performance for SOCMI and petroleum refineries (40 CFR part 60, subparts VV and GGG) do not impose any new information collection burden. The final amendments to these existing rules contain only clarifications, burden reducing provisions, and new compliance options. OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0443, EPA ICR number 1854.04, to the ICR for subpart VV and OMB control number 2060–0067, EPA ICR number 0983.08, to the ICR for subpart GGG. A copy of the OMB-approved ICR may be obtained from Susan Auby, Collection Strategies Division, Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

The information collection requirements in these new final standards (40 CFR part 60, subparts VVa and GGGa) have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information to be collected for the new standards are based on recordkeeping and reporting requirements in the NSPS General Provisions in 40 CFR part 60, subpart A, which are mandatory for all operators subject to NSPS. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

Facilities subject to 40 CFR part 60, subpart VVa are required to comply with the same monitoring, recordkeeping, and reporting requirements for equipment leaks as required by 40 CFR part 60, subpart VV, along with certain additional requirements. The new recordkeeping provisions in subpart VVa require general identifying information for each monitoring activity required by the rule and specific information needed to demonstrate compliance with the new monitoring provisions for connectors and pumps in light liquid service (weekly visual inspections for indications of dripping liquids). Records are also required to demonstrate compliance with the QA/QC requirement for a calibration drift assessment at the end of each day and comparison of the results of the assessment with the most recent calibration value. A new, reconstructed, or modified affected facility subject to 40 CFR part 60, subpart VVa or GGGa must submit a notification of compliance status report and include information about leaking connectors in semi-annual compliance reports. Affected facilities subject to subpart GGGa are required to comply with the monitoring, recordkeeping, and reporting requirements in subpart VVa except for the monitoring requirements applicable to connectors (and the associated recordkeeping/reporting requirements).

The annual average burden for the information collection requirements in 40 CFR part 60, subpart VVa is estimated at 7,194 labor-hours per year, with a total annual cost of $527,104 per year. The hour burden is based on an estimated 29 hours per response on a semi-annual basis by 76 respondents. Total capital/startup costs associated with the monitoring equipment over the 3-year period of the ICR are estimated at $4,200. The operation of the monitors is included in the monitoring costs, and maintenance costs on these units are incidental; therefore, no maintenance or operation costs are incurred.

The annual average burden for the information collection requirements in 40 CFR part 60, subpart GGGa is estimated at 4,216 labor-hours per year, with a total annual cost of $330,353 per year. The hour burden is based on an estimated 70 hours per response on a semi-annual basis by 20 respondents. No capital/startup costs or operation and maintenance costs are associated with the information collection requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment for the approved information collection requirements contained in the new standards.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the final amendments and new standards on small entities, small entity is defined as: (1) A small business according to Small Business Administration size standards by the North American Industry Classification System (NAICS) category of the owning entity; (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 that is independently owned and operated and is not dominant in its field. For the SOCMI, a small business ranges from less than 500 employees to less than 1,000 employees, depending on the NAICS code. For petroleum refiners, a small business has no more than 1,500 employees and a crude oil distillation capacity of no more than 125,000 barrels per calendar day.

After considering the economic impacts of these final amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that no facilities subject to the final amendments to the standards of performance for the SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG), including small businesses, will incur any adverse impacts because the final amendments do not create any new requirements or burdens. The final amendments include only clarifications, burden-reducing provisions, and new compliance options. We have determined that no facilities, large or small, subject to the new standards of performance for the SOCMI (40 CFR part 60, subpart VVa) or petroleum refineries (40 CFR part 60, subpart GGGa) will incur any economic impact greater than 0.3 percent of their revenues. For more information on the results of the analysis of small entity impacts, please refer to the economic impact analysis for the final amendments and new standards in Docket ID No. EPA–HQ–OAR–2006–0699.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this final action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. As discussed earlier in this preamble, no costs are associated with the final amendments, which contain only clarifications, burden-reducing provisions, and new compliance options. For the new standards, the estimated annual expenditures for the private sector in the fifth year after proposal are $821,000 for SOCMI and $26,000 for petroleum refineries. Thus, the final amendments and the new standards are not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that the final action contains no regulatory requirements that might significantly or uniquely affect small governments. The final action contains no requirements that apply to such governments, imposes no obligations upon them, and will not result in expenditures by them of $100 million or more in any 1 year or any disproportionate impacts on them. Therefore, the final action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of

regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

The final action does not have federalism implications. The final amendments and the new standards 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, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to this final action.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The final action does not have tribal implications, as specified in Executive Order 13175. The final amendments and the new standards 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 final action.

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

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final action is not subject to Executive Order 13045 because the final amendments and the new standards are based on technology performance and not on health or safety risks.

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

This final action is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this final action is not likely to have any adverse energy effects. The final action will not have any significant or adverse energy impacts because no additional pollution controls or other equipment that consume energy are required by the final amendments or new standards.

I. National Technology Transfer and Advancement Act

As noted in the proposal, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This rulemaking involves technical standards. The EPA cites the following methods: EPA Method 2, 2A, 2C, 2D, 18, 21, and 22 of 40 CFR part 60, appendix A.

In addition, the EPA cites the following ASTM methods that are also VCS: ASTM E260–73, E260–91, E260–96 (reapproved 2006), E168–67, E168–77, E168–92, E169–63, E169–77, and E169–93 when determining if a piece of equipment is in VOC service; ASTM D2879–83, D2879–96, and D2879–97 (reapproved 2007) when determining if a piece of equipment is in light liquid service, and ASTM D2504–67, D2504–77, D2504–88 (reapproved 1993), D2382–76, D2382–88, and D4809–95 when determining the maximum permitted velocity for air-assisted flares; ASTM E260–73, E260–91, E260–96, E168–67, E168–77, E168–92, E169–63, E169–77, and E169–93 when determining if a piece of equipment is in hydrogen service; and ASTM D86–78, D86–82, D86–90, D86–95, and D86–96 when determining if a piece of equipment is in light liquid service. These VCS will be incorporated by reference into § 60.17.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 2A, 2D, 21, and 22. The search and review results are in the docket for this rule.

The search identified one VCS as an acceptable alternative to an EPA Method. The standard ASTM D6420–99 (2004), "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry," is cited in this rule as an alternative to EPA Method 18 for measuring gaseous organic HAP.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated gas chromatography (GC)/mass spectrometry (MS). While offering advantages over the traditional EPA Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by EPA Method 18. Therefore, ASTM D6420–99 is a suitable alternative to EPA Method 18 only where:

(1) The target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and

(2) The target concentration is between 150 parts per billion by volume and 100 ppmv.

For target compound(s) not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, 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. For target

compound(s) not listed in Section 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA will cite ASTM D6420–99 in this rule. The EPA will also cite EPA Method 18 as a GC option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

The search for emissions measurement procedures identified four other VCS. The EPA determined that these four standards identified for measuring emissions of the HAP or surrogates subject to emission standards in this rule were impractical alternatives to EPA test methods for the purposes of this rule. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the four methods are discussed in the docket to this rule.

A source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures. Potential standards are reviewed to determine if they meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in EPA reference methods.

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

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.

EPA has determined that this final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. The final amendments to the standards of performance for SOCMI (40 CFR part 60, subpart VV) and petroleum refineries (40 CFR part 60, subpart GGG) are comprised of clarifications, burden-reducing provisions, and new compliance options that do not affect the current level of control at facilities subject these rules. The new standards of performance for SOCMI (40 CFR part 60, subpart VVa) and petroleum refineries (40 CFR part 60, subpart GGGa) will increase 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 or low-income population. The new subparts will increase the stringency of the standards of performance by reducing the leak definitions for certain pumps and valves, and subpart VVa will increase the stringency further by requiring the monitoring of certain connectors.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this final action and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final action in the **Federal Register**. A major rule 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). This final rule is effective on November 16, 2007.

List of Subjects

40 CFR Part 60

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

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: October 31, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons cited in the preamble, title 40, chapter I, parts 60 and 63 of the Code of Federal Regulations are amended as follows:

PART 60—[AMENDED]

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

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

Subpart A—[Amended]

■ 2. Section 60.17 is amended by revising paragraphs (a)(7), (35), (36), (41), (70), (88), (89), and (90) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(a) * * *

(7) ASTM D86–78, 82, 90, 93, 95, 96, Distillation of Petroleum Products, IBR approved for §§ 60.562–2(d), 60.593(d), 60.593a(d), and 60.633(h).

* * * * *

(35) ASTM D2382–76, 88, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for §§ 60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(e)(4), 60.664(e)(4), and 60.704(d)(4).

(36) ASTM D2504–67, 77, 88 (Reapproved 1993), Noncondensable Gases in C3 and Lighter Hydrocarbon Products by Gas Chromatography, IBR approved for §§ 60.485(g)(5) and 60.485a(g)(5).

* * * * *

(41) ASTM D2879–83, 96, 97, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for §§ 60.111b(f)(3), 60.116b(e)(3)(ii), 60.116b(f)(2)(i), 60.485(e)(1), and 60.485a(e)(1).

* * * * *

(70) ASTM D4809–95, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for §§ 60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(d)(4), 60.664(e)(4), and 60.704(d)(4).

* * * * *

(88) ASTM E168–67, 77, 92, General Techniques of Infrared Quantitative Analysis, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(89) ASTM E169–63, 77, 93, General Techniques of Ultraviolet Quantitative Analysis, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(90) ASTM E260–73, 91, 96, General Gas Chromatography Procedures, IBR approved for §§ 60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

* * * * *

Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006

■ 3. The heading for Subpart VV is revised as set out above.

■ 4. Section 60.480 is amended by revising paragraphs (b), (d)(2) through (d)(5), and (e) to read as follows:

§ 60.480 Applicability and designation of affected facility.

* * * * *

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after January 5, 1981, and on or before November 7, 2006, shall be subject to the requirements of this subpart.

* * * * *

(d) * * *

(2) Any affected facility that has the design capacity to produce less than 1,000 Mg/yr (1,102 ton/yr) of a chemical listed in § 60.489 is exempt from §§ 60.482–1 through 60.482–10.

(3) If an affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, then it is exempt from §§ 60.482–1 through 60.482–10.

(4) Any affected facility that produces beverage alcohol is exempt from §§ 60.482–1 through 60.482–10.

(5) Any affected facility that has no equipment in volatile organic compounds (VOC) service is exempt from §§ 60.482–1 through 60.482–10.

(e) *Alternative means of compliance*—(1) *Option to comply with part 65.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 65, subpart F, to satisfy the requirements of §§ 60.482 through 60.487 for an affected facility. When choosing to comply with 40 CFR part 65, subpart F, the requirements of § 60.485(d), (e), and (f) and § 60.486(i) and (j) still apply. Other provisions applying to an owner or operator who chooses to comply with 40 CFR part 65 are provided in 40 CFR 65.1.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 65, subpart F must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(1)(ii) do not apply to owners and operators of equipment subject to this subpart complying with 40 CFR part 65, subpart F, except that provisions required to be met prior to implementing 40 CFR part 65 still apply. Owners and operators who choose to comply with 40 CFR part 65, subpart F, must comply with 40 CFR part 65, subpart A.

(2) *Subpart VVa.* Owners or operators may choose to comply with the provisions of subpart VVa of this part 60 to satisfy the requirements of this subpart VV for an affected facility.

■ 5. Section 60.481 is amended by:

■ a. In the definition of "Capital expenditure" remove the table heading in paragraph (a)(3) and add in its place the heading "Table for Determining Applicable Value for B";

■ b. Revising the definitions for the terms "Connector," "First attempt at repair," "Hard piping," "Process unit," "Process unit shutdown," and "Repaired"; and

■ c. Adding, in alphabetical order, new definitions for the terms "Closed-loop system," "Closed-purge system," "Storage vessel," and "Transfer rack" to read as follows:

§ 60.481 Definitions.

* * * * *

Closed-loop system means an enclosed system that returns process fluid to the process.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers for purged liquids must be covered or closed when not being filled or emptied.

* * * * *

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this subpart.

* * * * *

First attempt at repair means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

* * * * *

Hard-piping means pipe or tubing that is manufactured and properly installed using good engineering judgment and standards such as ASME B31.3, Process Piping (available from the American Society of Mechanical Engineers, PO Box 2300, Fairfield, NJ 07007–2300).

* * * * *

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be accomplished. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours.

(2) An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

* * * * *

Repaired means that equipment is adjusted, or otherwise altered, in order to eliminate a leak as defined in the applicable sections of this subpart and, except for leaks identified in accordance with §§ 60.482–2(b)(2)(ii) and (d)(6)(ii) and (iii), 60.482–3(f), and 60.482–10(f)(1)(ii), is re-monitored as specified in § 60.485(b) to verify that emissions from the equipment are below the applicable leak definition.

* * * * *

Storage vessel means a tank or other vessel that is used to store organic liquids that are used in the process as raw material feedstocks, produced as intermediates or final products, or generated as wastes. Storage vessel does not include vessels permanently attached to motor vehicles, such as trucks, railcars, barges, or ships.

* * * * *

Transfer rack means the collection of loading arms and loading hoses, at a

single loading rack, that are used to fill tank trucks and/or railcars with organic liquids.

* * * * *

■ 6. Section 60.482–1 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 60.482–1 Standards: General.

* * * * *

(e) Equipment that an owner or operator designates as being in VOC service less than 300 hours (hr)/yr is excluded from the requirements of §§ 60.482–2 through 60.482–10 if it is identified as required in § 60.486(e)(6) and it meets any of the conditions specified in paragraphs (e)(1) through (3) of this section.

(1) The equipment is in VOC service only during startup and shutdown, excluding startup and shutdown between batches of the same campaign for a batch process.

(2) The equipment is in VOC service only during process malfunctions or other emergencies.

(3) The equipment is backup equipment that is in VOC service only when the primary equipment is out of service.

(f)(1) If a dedicated batch process unit operates less than 365 days during a year, an owner or operator may monitor to detect leaks from pumps and valves at the frequency specified in the following table instead of monitoring as specified in §§ 60.482–2, 60.482–7, and 60.483–2:

Operating time (percent of hours during year)	Equivalent monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
0 to <25	Quarterly	Annually	Annually.
25 to <50	Quarterly	Semiannually	Annually.
50 to <75	Bimonthly	Three quarters	Semiannually.
75 to 100	Monthly	Quarterly	Semiannually.

(2) Pumps and valves that are shared among two or more batch process units that are subject to this subpart may be monitored at the frequencies specified in paragraph (f)(1) of this section, provided the operating time of all such process units is considered.

(3) The monitoring frequencies specified in paragraph (f)(1) of this section are not requirements for monitoring at specific intervals and can be adjusted to accommodate process operations. An owner or operator may monitor at any time during the specified monitoring period (e.g., month, quarter, year), provided the monitoring is conducted at a reasonable interval after completion of the last monitoring campaign. Reasonable intervals are defined in paragraphs (f)(3)(i) through (iv) of this section.

(i) When monitoring is conducted quarterly, monitoring events must be separated by at least 30 calendar days.

(ii) When monitoring is conducted semiannually (*i.e.*, once every 2 quarters), monitoring events must be separated by at least 60 calendar days.

(iii) When monitoring is conducted in 3 quarters per year, monitoring events must be separated by at least 90 calendar days.

(iv) When monitoring is conducted annually, monitoring events must be separated by at least 120 calendar days.

(g) If the storage vessel is shared with multiple process units, the process unit with the greatest annual amount of stored materials (predominant use) is the process unit the storage vessel is assigned to. If the storage vessel is shared equally among process units, and one of the process units has equipment subject to subpart VVa of this part, the storage vessel is assigned to that process unit. If the storage vessel is shared equally among process units, none of which have equipment subject to subpart VVa of this part, the storage vessel is assigned to any process unit subject to this subpart. If the predominant use of the storage vessel varies from year to year, then the owner or operator must estimate the predominant use initially and reassess every 3 years. The owner or operator must keep records of the information and supporting calculations that show how predominant use is determined. All equipment on the storage vessel must be monitored when in VOC service.

■ 7. Section 60.482–2 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraph(b)(2);

■ c. Revising paragraph (c)(2);

■ d. Revising paragraphs (d) introductory text, (d)(1)(ii), (d)(4), (d)(5), and (d)(6); and

■ e. Revising paragraph (e) introductory text to read as follows:

§ 60.482–2 Standards: Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.485(b), except as provided in § 60.482–1(c) and (f) and paragraphs (d), (e), and (f) of this section. A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period, except for a pump that replaces a leaking pump and except as provided in § 60.482–1(c) and (f) and paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in § 60.482–1(f).

(b) * * *

(2) If there are indications of liquids dripping from the pump seal, the owner or operator shall follow the procedure specified in either paragraph (b)(2)(i) or (ii) of this section. This requirement does not apply to a pump that was monitored after a previous weekly inspection if the instrument reading for that monitoring event was less than 10,000 ppm and the pump was not repaired since that monitoring event.

(i) Monitor the pump within 5 days as specified in § 60.485(b). If an instrument reading of 10,000 ppm or greater is measured, a leak is detected. The leak shall be repaired using the procedures in paragraph (c) of this section.

(ii) Designate the visual indications of liquids dripping as a leak, and repair the leak within 15 days of detection by eliminating the visual indications of liquids dripping.

(c) * * *

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected. First attempts at repair include, but are not limited to, the practices described in paragraphs (c)(2)(i) and (ii) of this section, where practicable.

(i) Tightening the packing gland nuts;

(ii) Ensuring that the seal flush is operating at design pressure and temperature.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a) of this section, provided the requirements specified in paragraphs (d)(1) through (6) of this section are met.

(1) * * *

(ii) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10; or

* * * * *

(4)(i) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(ii) If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (d)(4)(ii)(A) or (B) of this section.

(A) Monitor the pump within 5 days as specified in § 60.485(b) to determine if there is a leak of VOC in the barrier fluid. If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(B) Designate the visual indications of liquids dripping as a leak.

(5)(i) Each sensor as described in paragraph (d)(3) of this section is checked daily or is equipped with an audible alarm.

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(iii) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion established in paragraph (d)(5)(ii) of this section, a leak is detected.

(6)(i) When a leak is detected pursuant to paragraph (d)(4)(ii)(A) of this section, it shall be repaired as specified in paragraph (c) of this section.

(ii) A leak detected pursuant to paragraph (d)(5)(iii) of this section shall be repaired within 15 days of detection by eliminating the conditions that activated the sensor.

(iii) A designated leak pursuant to paragraph (d)(4)(ii)(B) of this section shall be repaired within 15 days of detection by eliminating visual indications of liquids dripping.

(e) Any pump that is designated, as described in § 60.486(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) of this section if the pump:

* * * * *

■ 8. Section 60.482–3 is amended by revising paragraphs (a) and (j) to read as follows:

§ 60.482–3 Standards: Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.482–1(c) and paragraphs (h), (i), and (j) of this section.

* * * * *

(j) Any existing reciprocating compressor in a process unit which becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from paragraphs (a) through (e) and (h) of this section, provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of paragraphs (a) through (e) and (h) of this section.

■ 9. Section 60.482–5 is amended by revising paragraphs (a) and (b) to read as follows:

§ 60.482–5 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in § 60.482–1(c) and paragraph (c) of this section.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall comply with the requirements specified in paragraphs (b)(1) through (4) of this section.

(1) Gases displaced during filling of the sample container are not required to be collected or captured.

(2) Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.

(3) Gases remaining in the tubing or piping between the closed-purge system valve(s) and sample container valve(s) after the valves are closed and the sample container is disconnected are not required to be collected or captured.

(4) Each closed-purge, closed-loop, or closed-vent system shall be designed and operated to meet requirements in either paragraph (b)(4)(i), (ii), (iii), or (iv) of this section.

(i) Return the purged process fluid directly to the process line.

(ii) Collect and recycle the purged process fluid to a process.

(iii) Capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10.

(iv) Collect, store, and transport the purged process fluid to any of the following systems or facilities:

(A) A waste management unit as defined in § 63.111, if the waste management unit is subject to and operated in compliance with the provisions of 40 CFR part 63, subpart G, applicable to Group 1 wastewater streams;

(B) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266;

(C) A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261;

(D) A waste management unit subject to and operated in compliance with the treatment requirements of § 61.348(a), provided all waste management units that collect, store, or transport the purged process fluid to the treatment unit are subject to and operated in compliance with the management requirements of §§ 61.343 through 61.347; or

(E) A device used to burn off-specification used oil for energy recovery in accordance with 40 CFR part 279, subpart G, provided the purged process fluid is not hazardous waste as defined in 40 CFR part 261.

* * * * *

■ 10. Section 60.482–6 is amended by revising paragraph (a)(1) to read as follows:

§ 60.482–6 Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1(c) and paragraphs (d) and (e) of this section.

* * * * *

■ 11. Section 60.482–7 is amended by revising paragraphs (a) and (c)(1) to read as follows:

§ 60.482–7 Standards: Valves in gas/vapor service and in light liquid service.

(a)(1) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1(c) and (f), and §§ 60.483–1 and 60.483–2.

(2) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to paragraphs (a)(2)(i) or (ii), except for a valve that replaces a leaking valve and except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1(c), and §§ 60.483–1 and 60.483–2.

(i) Monitor the valve as in paragraph (a)(1) of this section. The valve must be

monitored for the first time within 30 days after the end of its startup period to ensure proper installation.

(ii) If the valves on the process unit are monitored in accordance with § 60.483–1 or § 60.483–2, count the new valve as leaking when calculating the percentage of valves leaking as described in § 60.483–2(b)(5). If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

* * * * *

(c)(1)(i) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(ii) As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into 2 or 3 subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

* * * * *

■ 12. Section 60.482–8 is amended by revising paragraphs (a)(2) and (d) to read as follows:

§ 60.482–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and connectors.

(a) * * *

(2) The owner or operator shall eliminate the visual, audible, olfactory, or other indication of a potential leak within 5 calendar days of detection.

* * * * *

(d) First attempts at repair include, but are not limited to, the best practices described under §§ 60.482–2(c)(2) and 60.482–7(e).

■ 13. Section 60.482–9 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 60.482–9 Standards: Delay of repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown. Monitoring to verify repair must occur within 15 days after startup of the process unit.

* * * * *

(f) When delay of repair is allowed for a leaking pump or valve that remains in service, the pump or valve may be considered to be repaired and no longer subject to delay of repair requirements if two consecutive monthly monitoring instrument readings are below the leak definition.

■ 14. Section 60.483–1 is amended by revising paragraph (d) to read as follows:

§ 60.483–1 Alternative standards for valves—allowable percentage of valves leaking.

* * * * *

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent, determined as described in § 60.485(h).

■ 15. Section 60.483–2 is amended by revising paragraph (b)(5) and adding paragraph (b)(7) to read as follows:

§ 60.483–2 Alternative standards for valves—skip period leak detection and repair.

* * * * *

(b) * * *

(5) The percent of valves leaking shall be determined as described in § 60.485(h).

* * * * *

(7) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for a process unit following one of the alternative standards in this section must be monitored in accordance with § 60.482–7(a)(2)(i) or (ii) before the provisions of this section can be applied to that valve.

■ 16. Section 60.484 is amended by:

■ a. Removing the word "equivalance" and adding in its place the word "equivalence" in paragraph (a); and

■ b. Revising paragraph (b)(2) to read as follows:

§ 60.484 Equivalence of means of emission limitation.

* * * * *

(b) * * *

(2) The Administrator will compare test data for demonstrating equivalence of the means of emission limitation to test data for the equipment, design, and operational requirements.

* * * * *

■ 17. Section 60.485 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Revising paragraphs (e) introductory text, (e)(1) and (e)(2);

■ c. Revising paragraphs (g)(4) and (5); and

■ d. Adding paragraph (h) to read as follows:

§ 60.485 Test methods and procedures.

* * * * *

(b) The owner or operator shall determine compliance with the standards in §§ 60.482–1 through 60.482–10, 60.483, and 60.484 as follows:

* * * * *

(e) The owner or operator shall demonstrate that a piece of equipment is in light liquid service by showing that all the following conditions apply:

(1) The vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F). Standard reference texts or ASTM D2879–83, 96, or 97 (incorporated by reference—see § 60.17) shall be used to determine the vapor pressures.

(2) The total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F) is equal to or greater than 20 percent by weight.

* * * * *

(g) * * *

(4) The net heating value (H_T) of the gas being combusted in a flare shall be computed using the following equation:

$$H_T = K\sum_{i=1}^{n} C_i H_i$$

Where:

K = Conversion constant, 1.740×10^{-7} (g-mole)(MJ)/(ppm-scm-kcal) (metric units) = 4.674×10^{-6} [(g-mole)(Btu)/(ppm-scf-kcal)] (English units)

C_i = Concentration of sample component "i," ppm

H_i = Net heat of combustion of sample component "i" at 25 °C and 760 mm Hg (77 °F and 14.7 psi), kcal/g-mole

(5) Method 18 or ASTM D6420–99 (2004) (where the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion by volume and 100 parts per million by volume) and ASTM D2504–67, 77 or 88 (Reapproved 1993) (incorporated by reference—see § 60.17) shall be used to determine the concentration of sample component "i."

* * * * *

(h) The owner or operator shall determine compliance with § 60.483–1 or § 60.483–2 as follows:

(1) The percent of valves leaking shall be determined using the following equation:

$$\%V_L = (V_L/V_T) * 100$$

Where:

$\%V_L$ = Percent leaking valves

V_L = Number of valves found leaking

V_T = The sum of the total number of valves monitored

(2) The total number of valves monitored shall include difficult-to-monitor and unsafe-to-monitor valves

only during the monitoring period in which those valves are monitored.

(3) The number of valves leaking shall include valves for which repair has been delayed.

(4) Any new valve that is not monitored within 30 days of being placed in service shall be included in the number of valves leaking and the total number of valves monitored for the monitoring period in which the valve is placed in service.

(5) If the process unit has been subdivided in accordance with § 60.482–7(c)(1)(ii), the sum of valves found leaking during a monitoring period includes all subgroups.

(6) The total number of valves monitored does not include a valve monitored to verify repair.

■ 18. Section 60.486 is amended by revising paragraph (e)(2)(ii) and adding paragraph (e)(6) to read as follows:

§ 60.486 Recordkeeping requirements.

* * * * *

(e) * * *

(2) * * *

(ii) The designation of equipment as subject to the requirements of § 60.482–2(e), § 60.482–3(i), or § 60.482–7(f) shall be signed by the owner or operator. Alternatively, the owner or operator may establish a mechanism with their permitting authority that satisfies this requirement.

* * * * *

(6) A list of identification numbers for equipment that the owner or operator designates as operating in VOC service less than 300 hr/yr in accordance with § 60.482–1(e), a description of the conditions under which the equipment is in VOC service, and rationale supporting the designation that it is in VOC service less than 300 hr/yr.

* * * * *

■ 19. Section 60.487 is amended by:

■ a. Revising paragraphs (c)(2)(i), (c)(2)(iii), and (c)(2)(iv) to read as follows:

§ 60.487 Reporting requirements.

* * * * *

(c) * * *

(2) * * *

(i) Number of valves for which leaks were detected as described in § 60.482–7(b) or § 60.483–2,

* * * * *

(iii) Number of pumps for which leaks were detected as described in § 60.482–2(b), (d)(4)(ii)(A) or (B), or (d)(5)(iii),

(iv) Number of pumps for which leaks were not repaired as required in § 60.482–2(c)(1) and (d)(6),

* * * * *

■ 20. Part 60 is amended by adding subpart VVa to read as follows:

Subpart VVa—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006

Sec.

§ 60.480a Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in the synthetic organic chemicals manufacturing industry.

(2) The group of all equipment (defined in § 60.481a) within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after November 7, 2006, shall be subject to the requirements of this subpart.

(c) Addition or replacement of equipment for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d)(1) If an owner or operator applies for one or more of the exemptions in this paragraph, then the owner or operator shall maintain records as required in § 60.486a(i).

(2) Any affected facility that has the design capacity to produce less than 1,000 Mg/yr (1,102 ton/yr) of a chemical listed in § 60.489 is exempt from §§ 60.482–1a through 60.482–11a.

(3) If an affected facility produces heavy liquid chemicals only from heavy liquid feed or raw materials, then it is exempt from §§ 60.482–1a through 60.482–11a.

(4) Any affected facility that produces beverage alcohol is exempt from §§ 60.482–1a through 60.482–11a.

(5) Any affected facility that has no equipment in volatile organic compounds (VOC) service is exempt from §§ 60.482–1a through 60.482–11a.

(e) *Alternative means of compliance*—(1) *Option to comply with part 65.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 65, subpart F, to satisfy the requirements of §§ 60.482–1a through 60.487a for an affected facility. When choosing to comply with 40 CFR part 65, subpart F, the requirements of §§ 60.485a(d), (e), and (f), and 60.486a(i) and (j) still apply. Other provisions applying to an owner or operator who chooses to comply with 40 CFR part 65 are provided in 40 CFR 65.1.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 65, subpart F must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(1)(ii) do not apply to owners or operators of equipment subject to this subpart complying with 40 CFR part 65, subpart F, except that provisions required to be met prior to implementing 40 CFR part 65 still apply. Owners and operators who choose to comply with 40 CFR part 65, subpart F, must comply with 40 CFR part 65, subpart A.

(2) *Part 63, subpart H.* (i) Owners or operators may choose to comply with the provisions of 40 CFR part 63, subpart H, to satisfy the requirements of §§ 60.482–1a through 60.487a for an affected facility. When choosing to comply with 40 CFR part 63, subpart H, the requirements of § 60.485a(d), (e), and (f), and § 60.486a(i) and (j) still apply.

(ii) *Part 60, subpart A.* Owners or operators who choose to comply with 40 CFR part 63, subpart H must also comply with §§ 60.1, 60.2, 60.5, 60.6, 60.7(a)(1) and (4), 60.14, 60.15, and 60.16 for that equipment. All sections and paragraphs of subpart A of this part that are not mentioned in this paragraph (e)(2)(ii) do not apply to owners or operators of equipment subject to this

subpart complying with 40 CFR part 63, subpart H, except that provisions required to be met prior to implementing 40 CFR part 63 still apply. Owners and operators who choose to comply with 40 CFR part 63, subpart H, must comply with 40 CFR part 63, subpart A.

§ 60.481a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (CAA) or in subpart A of part 60, and the following terms shall have the specific meanings given them.

Capital expenditure means, in addition to the definition in 40 CFR 60.2, an expenditure for a physical or operational change to an existing facility that:

(a) Exceeds P, the product of the facility's replacement cost, R, and an adjusted annual asset guideline repair allowance, A, as reflected by the following equation: $P = R \times A$, where:

(1) The adjusted annual asset guideline repair allowance, A, is the product of the percent of the replacement cost, Y, and the applicable basic annual asset guideline repair allowance, B, divided by 100 as reflected by the following equation: $A = Y \times (B \div 100)$;

(2) The percent Y is determined from the following equation: $Y = 1.0 - 0.575 \log X$, where X is 2006 minus the year of construction; and

(3) The applicable basic annual asset guideline repair allowance, B, is selected from the following table consistent with the applicable subpart:

TABLE FOR DETERMINING APPLICABLE VALUE FOR B

Subpart applicable to facility	Value of B to be used in equation
VVa	12.5
GGGa	7.0

Closed-loop system means an enclosed system that returns process fluid to the process.

Closed-purge system means a system or combination of systems and portable containers to capture purged liquids. Containers for purged liquids must be covered or closed when not being filled or emptied.

Closed vent system means a system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back to a process.

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation.

Control device means an enclosed combustion device, vapor recovery system, or flare.

Distance piece means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

Double block and bleed system means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

Duct work means a conveyance system such as those commonly used for heating and ventilation systems. It is often made of sheet metal and often has sections connected by screws or crimping. Hard-piping is not ductwork.

Equipment means each pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, valve, and flange or other connector in VOC service and any devices or systems required by this subpart.

First attempt at repair means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

Fuel gas means gases that are combusted to derive useful work or heat.

Fuel gas system means the offsite and onsite piping and flow and pressure control system that gathers gaseous stream(s) generated by onsite operations, may blend them with other sources of gas, and transports the gaseous stream for use as fuel gas in combustion devices or in-process combustion equipment, such as furnaces and gas turbines, either singly or in combination.

Hard-piping means pipe or tubing that is manufactured and properly installed using good engineering judgment and standards such as ASME B31.3, Process Piping (available from the American Society of Mechanical Engineers, P.O. Box 2300, Fairfield, NJ 07007–2300).

In gas/vapor service means that the piece of equipment contains process fluid that is in the gaseous state at operating conditions.

In heavy liquid service means that the piece of equipment is not in gas/vapor service or in light liquid service.

In light liquid service means that the piece of equipment contains a liquid that meets the conditions specified in § 60.485a(e).

In-situ sampling systems means nonextractive samplers or in-line samplers.

In vacuum service means that equipment is operating at an internal pressure which is at least 5 kilopascals (kPa) (0.7 psia) below ambient pressure.

In VOC service means that the piece of equipment contains or contacts a process fluid that is at least 10 percent VOC by weight. (The provisions of § 60.485a(d) specify how to determine that a piece of equipment is not in VOC service.)

Initial calibration value means the concentration measured during the initial calibration at the beginning of each day required in § 60.485a(b)(1), or the most recent calibration if the instrument is recalibrated during the day (i.e., the calibration is adjusted) after a calibration drift assessment.

Liquids dripping means any visible leakage from the seal including spraying, misting, clouding, and ice formation.

Open-ended valve or line means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

Pressure release means the emission of materials resulting from system pressure being greater than set pressure of the pressure relief device.

Process improvement means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1a(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

Process unit shutdown means a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process

material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be accomplished. The following are not considered process unit shutdowns:

(1) An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours.

(2) An unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown.

(3) The use of spare equipment and technically feasible bypassing of equipment without stopping production.

Quarter means a 3-month period; the first quarter concludes on the last day of the last full month during the 180 days following initial startup.

Repaired means that equipment is adjusted, or otherwise altered, in order to eliminate a leak as defined in the applicable sections of this subpart and, except for leaks identified in accordance with §§ 60.482–2a(b)(2)(ii) and (d)(6)(ii) and (d)(6)(iii), 60.482–3a(f), and 60.482–10a(f)(1)(ii), is re-monitored as specified in § 60.485a(b) to verify that emissions from the equipment are below the applicable leak definition.

Replacement cost means the capital needed to purchase all the depreciable components in a facility.

Sampling connection system means an assembly of equipment within a process unit used during periods of representative operation to take samples of the process fluid. Equipment used to take nonroutine grab samples is not considered a sampling connection system.

Sensor means a device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH, or liquid level.

Storage vessel means a tank or other vessel that is used to store organic liquids that are used in the process as raw material feedstocks, produced as intermediates or final products, or generated as wastes. Storage vessel does not include vessels permanently attached to motor vehicles, such as trucks, railcars, barges or ships.

Synthetic organic chemicals manufacturing industry means the industry that produces, as intermediates or final products, one or more of the chemicals listed in § 60.489.

Transfer rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks and/or railcars with organic liquids.

Volatile organic compounds or VOC means, for the purposes of this subpart, any reactive organic compounds as defined in § 60.2 Definitions.

§ 60.482–1a Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of §§ 60.482–1a through 60.482–10a or § 60.480a(e) for all equipment within 180 days of initial startup.

(b) Compliance with §§ 60.482–1a to 60.482–10a will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in § 60.485a.

(c)(1) An owner or operator may request a determination of equivalence of a means of emission limitation to the requirements of §§ 60.482–2a, 60.482–3a, 60.482–5a, 60.482–6a, 60.482–7a, 60.482–8a, and 60.482–10a as provided in § 60.484a.

(2) If the Administrator makes a determination that a means of emission limitation is at least equivalent to the requirements of §§ 60.482–2a, 60.482–3a, 60.482–5a, 60.482–6a, 60.482–7a, 60.482–8a, or 60.482–10a, an owner or operator shall comply with the requirements of that determination.

(d) Equipment that is in vacuum service is excluded from the requirements of §§ 60.482–2a through 60.482–10a if it is identified as required in § 60.486a(e)(5).

(e) Equipment that an owner or operator designates as being in VOC service less than 300 hr/yr is excluded from the requirements of §§ 60.482–2a through 60.482–11a if it is identified as required in § 60.486a(e)(6) and it meets any of the conditions specified in paragraphs (e)(1) through (3) of this section.

(1) The equipment is in VOC service only during startup and shutdown, excluding startup and shutdown between batches of the same campaign for a batch process.

(2) The equipment is in VOC service only during process malfunctions or other emergencies.

(3) The equipment is backup equipment that is in VOC service only when the primary equipment is out of service.

(f)(1) If a dedicated batch process unit operates less than 365 days during a year, an owner or operator may monitor to detect leaks from pumps, valves, and open-ended valves or lines at the frequency specified in the following table instead of monitoring as specified in §§ 60.482–2a, 60.482–7a, and 60.483.2a:

Operating time (percent of hours during year)	Equivalent monitoring frequency time in use		
	Monthly	Quarterly	Semiannually
0 to <25	Quarterly	Annually	Annually.
25 to <50	Quarterly	Semiannually	Annually.
50 to <75	Bimonthly	Three quarters	Semiannually.
75 to 100	Monthly	Quarterly	Semiannually.

(2) Pumps and valves that are shared among two or more batch process units that are subject to this subpart may be monitored at the frequencies specified in paragraph (f)(1) of this section, provided the operating time of all such process units is considered.

(3) The monitoring frequencies specified in paragraph (f)(1) of this section are not requirements for monitoring at specific intervals and can be adjusted to accommodate process operations. An owner or operator may monitor at any time during the specified monitoring period (e.g., month, quarter, year), provided the monitoring is conducted at a reasonable interval after completion of the last monitoring campaign. Reasonable intervals are defined in paragraphs (f)(3)(i) through (iv) of this section.

(i) When monitoring is conducted quarterly, monitoring events must be separated by at least 30 calendar days.

(ii) When monitoring is conducted semiannually (*i.e.*, once every 2 quarters), monitoring events must be separated by at least 60 calendar days.

(iii) When monitoring is conducted in 3 quarters per year, monitoring events

must be separated by at least 90 calendar days.

(iv) When monitoring is conducted annually, monitoring events must be separated by at least 120 calendar days.

(g) If the storage vessel is shared with multiple process units, the process unit with the greatest annual amount of stored materials (predominant use) is the process unit the storage vessel is assigned to. If the storage vessel is shared equally among process units, and one of the process units has equipment subject to this subpart, the storage vessel is assigned to that process unit. If the storage vessel is shared equally among process units, none of which have equipment subject to this subpart of this part, the storage vessel is assigned to any process unit subject to subpart VV of this part. If the predominant use of the storage vessel varies from year to year, then the owner or operator must estimate the predominant use initially and reassess every 3 years. The owner or operator must keep records of the information and supporting calculations that show how predominant use is determined. All equipment on the storage vessel must be monitored when in VOC service.

§ 60.482–2a Standards: Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.485a(b), except as provided in § 60.482–1a(c) and (f) and paragraphs (d), (e), and (f) of this section. A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period, except for a pump that replaces a leaking pump and except as provided in § 60.482–1a(c) and paragraphs (d), (e), and (f) of this section.

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in § 60.482–1a(f).

(b)(1) The instrument reading that defines a leak is specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) 5,000 parts per million (ppm) or greater for pumps handling polymerizing monomers;

(ii) 2,000 ppm or greater for all other pumps.

(2) If there are indications of liquids dripping from the pump seal, the owner or operator shall follow the procedure specified in either paragraph (b)(2)(i) or (ii) of this section. This requirement does not apply to a pump that was monitored after a previous weekly inspection and the instrument reading was less than the concentration specified in paragraph (b)(1)(i) or (ii) of this section, whichever is applicable.

(i) Monitor the pump within 5 days as specified in § 60.485a(b). A leak is detected if the instrument reading measured during monitoring indicates a leak as specified in paragraph (b)(1)(i) or (ii) of this section, whichever is applicable. The leak shall be repaired using the procedures in paragraph (c) of this section.

(ii) Designate the visual indications of liquids dripping as a leak, and repair the leak using either the procedures in paragraph (c) of this section or by eliminating the visual indications of liquids dripping.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected. First attempts at repair include, but are not limited to, the practices described in paragraphs (c)(2)(i) and (ii) of this section, where practicable.

(i) Tightening the packing gland nuts;

(ii) Ensuring that the seal flush is operating at design pressure and temperature.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a) of this section, provided the requirements specified in paragraphs (d)(1) through (6) of this section are met.

(1) Each dual mechanical seal system is:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

(ii) Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10a; or

(iii) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(2) The barrier fluid system is in heavy liquid service or is not in VOC service.

(3) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4)(i) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(ii) If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (d)(4)(ii)(A) or (B) of this section prior to the next required inspection.

(A) Monitor the pump within 5 days as specified in § 60.485a(b) to determine if there is a leak of VOC in the barrier fluid. If an instrument reading of 2,000 ppm or greater is measured, a leak is detected.

(B) Designate the visual indications of liquids dripping as a leak.

(5)(i) Each sensor as described in paragraph (d)(3) is checked daily or is equipped with an audible alarm.

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(iii) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion established in paragraph (d)(5)(ii) of this section, a leak is detected.

(6)(i) When a leak is detected pursuant to paragraph (d)(4)(ii)(A) of this section, it shall be repaired as specified in paragraph (c) of this section.

(ii) A leak detected pursuant to paragraph (d)(5)(iii) of this section shall be repaired within 15 days of detection by eliminating the conditions that activated the sensor.

(iii) A designated leak pursuant to paragraph (d)(4)(ii)(B) of this section shall be repaired within 15 days of detection by eliminating visual indications of liquids dripping.

(e) Any pump that is designated, as described in § 60.486a(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) of this section if the pump:

(1) Has no externally actuated shaft penetrating the pump housing;

(2) Is demonstrated to be operating with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background as measured by the methods specified in § 60.485a(c); and

(3) Is tested for compliance with paragraph (e)(2) of this section initially upon designation, annually, and at other times requested by the Administrator.

(f) If any pump is equipped with a closed vent system capable of capturing and transporting any leakage from the seal or seals to a process or to a fuel gas system or to a control device that complies with the requirements of § 60.482–10a, it is exempt from

paragraphs (a) through (e) of this section.

(g) Any pump that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor pump is exempt from the monitoring and inspection requirements of paragraphs (a) and (d)(4) through (6) of this section if:

(1) The owner or operator of the pump demonstrates that the pump is unsafe-to-monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section; and

(2) The owner or operator of the pump has a written plan that requires monitoring of the pump as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in paragraph (c) of this section if a leak is detected.

(h) Any pump that is located within the boundary of an unmanned plant site is exempt from the weekly visual inspection requirement of paragraphs (a)(2) and (d)(4) of this section, and the daily requirements of paragraph (d)(5) of this section, provided that each pump is visually inspected as often as practicable and at least monthly.

§ 60.482–3a Standards: Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.482–1a(c) and paragraphs (h), (i), and (j) of this section.

(b) Each compressor seal system as required in paragraph (a) of this section shall be:

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or

(2) Equipped with a barrier fluid system degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of § 60.482–10a; or

(3) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(c) The barrier fluid system shall be in heavy liquid service or shall not be in VOC service.

(d) Each barrier fluid system as described in paragraph (a) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in paragraph (d) of this section shall be checked daily or shall be equipped with an audible alarm.

(2) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(f) If the sensor indicates failure of the seal system, the barrier system, or both based on the criterion determined under paragraph (e)(2) of this section, a leak is detected.

(g)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(h) A compressor is exempt from the requirements of paragraphs (a) and (b) of this section, if it is equipped with a closed vent system to capture and transport leakage from the compressor drive shaft back to a process or fuel gas system or to a control device that complies with the requirements of § 60.482–10a, except as provided in paragraph (i) of this section.

(i) Any compressor that is designated, as described in § 60.486a(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a) through (h) of this section if the compressor:

(1) Is demonstrated to be operating with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.485a(c); and

(2) Is tested for compliance with paragraph (i)(1) of this section initially upon designation, annually, and at other times requested by the Administrator.

(j) Any existing reciprocating compressor in a process unit which becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from paragraphs (a) through (e) and (h) of this section, provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of paragraphs (a) through (e) and (h) of this section.

§ 60.482–4a Standards: Pressure relief devices in gas/vapor service.

(a) Except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined by the methods specified in § 60.485a(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in § 60.482–9a.

(2) No later than 5 calendar days after the pressure release, the pressure relief device shall be monitored to confirm the conditions of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, by the methods specified in § 60.485a(c).

(c) Any pressure relief device that is routed to a process or fuel gas system or equipped with a closed vent system capable of capturing and transporting leakage through the pressure relief device to a control device as described in § 60.482–10a is exempted from the requirements of paragraphs (a) and (b) of this section.

(d)(1) Any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of paragraphs (a) and (b) of this section, provided the owner or operator complies with the requirements in paragraph (d)(2) of this section.

(2) After each pressure release, a new rupture disk shall be installed upstream of the pressure relief device as soon as practicable, but no later than 5 calendar days after each pressure release, except as provided in § 60.482–9a.

§ 60.482–5a Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in § 60.482–1a(c) and paragraph (c) of this section.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall comply with the requirements specified in paragraphs (b)(1) through (4) of this section.

(1) Gases displaced during filling of the sample container are not required to be collected or captured.

(2) Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.

(3) Gases remaining in the tubing or piping between the closed-purge system valve(s) and sample container valve(s) after the valves are closed and the sample container is disconnected are not required to be collected or captured.

(4) Each closed-purge, closed-loop, or closed-vent system shall be designed and operated to meet requirements in either paragraph (b)(4)(i), (ii), (iii), or (iv) of this section.

(i) Return the purged process fluid directly to the process line.

(ii) Collect and recycle the purged process fluid to a process.

(iii) Capture and transport all the purged process fluid to a control device that complies with the requirements of § 60.482–10a.

(iv) Collect, store, and transport the purged process fluid to any of the following systems or facilities:

(A) A waste management unit as defined in 40 CFR 63.111, if the waste management unit is subject to and operated in compliance with the provisions of 40 CFR part 63, subpart G, applicable to Group 1 wastewater streams;

(B) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266;

(C) A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261;

(D) A waste management unit subject to and operated in compliance with the treatment requirements of 40 CFR 61.348(a), provided all waste management units that collect, store, or transport the purged process fluid to the treatment unit are subject to and operated in compliance with the management requirements of 40 CFR 61.343 through 40 CFR 61.347; or

(E) A device used to burn off-specification used oil for energy recovery in accordance with 40 CFR part 279, subpart G, provided the purged process fluid is not hazardous waste as defined in 40 CFR part 261.

(c) In-situ sampling systems and sampling systems without purges are exempt from the requirements of paragraphs (a) and (b) of this section.

§ 60.482–6a Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1a(c) and paragraphs (d) and (e) of this section.

(2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(c) When a double block-and-bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (a) of this section at all other times.

(d) Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirements of paragraphs (a), (b), and (c) of this section.

(e) Open-ended valves or lines containing materials which would autocatalytically polymerize or would present an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraphs (a) through (c) of this section are exempt from the requirements of paragraphs (a) through (c) of this section.

§ 60.482–7a Standards: Valves in gas/vapor service and in light liquid service.

(a)(1) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.485a(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1a(c) and (f), and §§ 60.483–1a and 60.483–2a.

(2) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to paragraphs (a)(2)(i) or (ii), except for a valve that replaces a leaking valve and except as provided in paragraphs (f), (g), and (h) of this section, § 60.482–1a(c), and §§ 60.483–1a and 60.483–2a.

(i) Monitor the valve as in paragraph (a)(1) of this section. The valve must be monitored for the first time within 30 days after the end of its startup period to ensure proper installation.

(ii) If the existing valves in the process unit are monitored in accordance with § 60.483–1a or § 60.483–2a, count the new valve as leaking when calculating the percentage of valves leaking as described in § 60.483–2a(b)(5). If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.

(b) If an instrument reading of 500 ppm or greater is measured, a leak is detected.

(c)(1)(i) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(ii) As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into two or three subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.482–9a.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts;

(2) Replacement of bonnet bolts;

(3) Tightening of packing gland nuts;

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in § 60.486a(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraph (a) of this section if the valve:

(1) Has no external actuating mechanism in contact with the process fluid,

(2) Is operated with emissions less than 500 ppm above background as determined by the method specified in § 60.485a(c), and

(3) Is tested for compliance with paragraph (f)(2) of this section initially upon designation, annually, and at other times requested by the Administrator.

(g) Any valve that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor valve is exempt from the requirements of paragraph (a) of this section if:

(1) The owner or operator of the valve demonstrates that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (a) of this section, and

(2) The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

(h) Any valve that is designated, as described in § 60.486a(f)(2), as a difficult-to-monitor valve is exempt

from the requirements of paragraph (a) of this section if:

(1) The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The process unit within which the valve is located either:

(i) Becomes an affected facility through § 60.14 or § 60.15 and was constructed on or before January 5, 1981; or

(ii) Has less than 3.0 percent of its total number of valves designated as difficult-to-monitor by the owner or operator.

(3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

§ 60.482–8a Standards: Pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service.

(a) If evidence of a potential leak is found by visual, audible, olfactory, or any other detection method at pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service, the owner or operator shall follow either one of the following procedures:

(1) The owner or operator shall monitor the equipment within 5 days by the method specified in § 60.485a(b) and shall comply with the requirements of paragraphs (b) through (d) of this section.

(2) The owner or operator shall eliminate the visual, audible, olfactory, or other indication of a potential leak within 5 calendar days of detection.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a.

(2) The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under §§ 60.482–2a(c)(2) and 60.482–7a(e).

§ 60.482–9a Standards: Delay of repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown. Monitoring to verify repair must occur within 15 days after startup of the process unit.

(b) Delay of repair of equipment will be allowed for equipment which is isolated from the process and which does not remain in VOC service.

(c) Delay of repair for valves and connectors will be allowed if:

(1) The owner or operator demonstrates that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and

(2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with § 60.482–10a.

(d) Delay of repair for pumps will be allowed if:

(1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system, and

(2) Repair is completed as soon as practicable, but not later than 6 months after the leak was detected.

(e) Delay of repair beyond a process unit shutdown will be allowed for a valve, if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next process unit shutdown will not be allowed unless the next process unit shutdown occurs sooner than 6 months after the first process unit shutdown.

(f) When delay of repair is allowed for a leaking pump, valve, or connector that remains in service, the pump, valve, or connector may be considered to be repaired and no longer subject to delay of repair requirements if two consecutive monthly monitoring instrument readings are below the leak definition.

§ 60.482–10a Standards: Closed vent systems and control devices.

(a) Owners or operators of closed vent systems and control devices used to comply with provisions of this subpart shall comply with the provisions of this section.

(b) Vapor recovery systems (for example, condensers and absorbers) shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million by volume (ppmv), whichever is less stringent.

(c) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 ppmv, on a dry basis, corrected to 3 percent oxygen, whichever is less stringent or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816 °C.

(d) Flares used to comply with this subpart shall comply with the requirements of § 60.18.

(e) Owners or operators of control devices used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs.

(f) Except as provided in paragraphs (i) through (k) of this section, each closed vent system shall be inspected according to the procedures and schedule specified in paragraphs (f)(1) and (2) of this section.

(1) If the vapor collection system or closed vent system is constructed of hard-piping, the owner or operator shall comply with the requirements specified in paragraphs (f)(1)(i) and (ii) of this section:

(i) Conduct an initial inspection according to the procedures in § 60.485a(b); and

(ii) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(2) If the vapor collection system or closed vent system is constructed of ductwork, the owner or operator shall:

(i) Conduct an initial inspection according to the procedures in § 60.485a(b); and

(ii) Conduct annual inspections according to the procedures in § 60.485a(b).

(g) Leaks, as indicated by an instrument reading greater than 500 ppmv above background or by visual inspections, shall be repaired as soon as practicable except as provided in paragraph (h) of this section.

(1) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(2) Repair shall be completed no later than 15 calendar days after the leak is detected.

(h) Delay of repair of a closed vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be complete by the end of the next process unit shutdown.

(i) If a vapor collection system or closed vent system is operated under a vacuum, it is exempt from the

inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section.

(j) Any parts of the closed vent system that are designated, as described in paragraph (l)(1) of this section, as unsafe to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (j)(1) and (2) of this section:

(1) The owner or operator determines that the equipment is unsafe to inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with paragraphs (f)(1)(i) or (f)(2) of this section; and

(2) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times.

(k) Any parts of the closed vent system that are designated, as described in paragraph (l)(2) of this section, as difficult to inspect are exempt from the inspection requirements of paragraphs (f)(1)(i) and (f)(2) of this section if they comply with the requirements specified in paragraphs (k)(1) through (3) of this section:

(1) The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters above a support surface; and

(2) The process unit within which the closed vent system is located becomes an affected facility through §§ 60.14 or 60.15, or the owner or operator designates less than 3.0 percent of the total number of closed vent system equipment as difficult to inspect; and

(3) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years. A closed vent system is exempt from inspection if it is operated under a vacuum.

(l) The owner or operator shall record the information specified in paragraphs (l)(1) through (5) of this section.

(1) Identification of all parts of the closed vent system that are designated as unsafe to inspect, an explanation of why the equipment is unsafe to inspect, and the plan for inspecting the equipment.

(2) Identification of all parts of the closed vent system that are designated as difficult to inspect, an explanation of why the equipment is difficult to inspect, and the plan for inspecting the equipment.

(3) For each inspection during which a leak is detected, a record of the information specified in § 60.486a(c).

(4) For each inspection conducted in accordance with § 60.485a(b) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(5) For each visual inspection conducted in accordance with paragraph (f)(1)(ii) of this section during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(m) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

§ 60.482–11a Standards: Connectors in gas/vapor service and in light liquid service.

(a) The owner or operator shall initially monitor all connectors in the process unit for leaks by the later of either 12 months after the compliance date or 12 months after initial startup. If all connectors in the process unit have been monitored for leaks prior to the compliance date, no initial monitoring is required provided either no process changes have been made since the monitoring or the owner or operator can determine that the results of the monitoring, with or without adjustments, reliably demonstrate compliance despite process changes. If required to monitor because of a process change, the owner or operator is required to monitor only those connectors involved in the process change.

(b) Except as allowed in § 60.482–1a(c), § 60.482–10a, or as specified in paragraph (e) of this section, the owner or operator shall monitor all connectors in gas and vapor and light liquid service as specified in paragraphs (a) and (b)(3) of this section.

(1) The connectors shall be monitored to detect leaks by the method specified in § 60.485a(b) and, as applicable, § 60.485a(c).

(2) If an instrument reading greater than or equal to 500 ppm is measured, a leak is detected.

(3) The owner or operator shall perform monitoring, subsequent to the initial monitoring required in paragraph (a) of this section, as specified in paragraphs (b)(3)(i) through (iii) of this section, and shall comply with the requirements of paragraphs (b)(3)(iv) and (v) of this section. The required period in which monitoring must be conducted shall be determined from paragraphs (b)(3)(i) through (iii) of this section using the monitoring results from the preceding monitoring period. The percent leaking connectors shall be calculated as specified in paragraph (c) of this section.

(i) If the percent leaking connectors in the process unit was greater than or equal to 0.5 percent, then monitor within 12 months (1 year).

(ii) If the percent leaking connectors in the process unit was greater than or equal to 0.25 percent but less than 0.5 percent, then monitor within 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors within 2 years of the start of the monitoring period, provided all connectors have been monitored by the end of the 4-year monitoring period.

(iii) If the percent leaking connectors in the process unit was less than 0.25 percent, then monitor as provided in paragraph (b)(3)(iii)(A) of this section and either paragraph (b)(3)(iii)(B) or (b)(3)(iii)(C) of this section, as appropriate.

(A) An owner or operator shall monitor at least 50 percent of the connectors within 4 years of the start of the monitoring period.

(B) If the percent of leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is greater than or equal to 0.35 percent of the monitored connectors, the owner or operator shall monitor as soon as practical, but within the next 6 months, all connectors that have not yet been monitored during the monitoring period. At the conclusion of monitoring, a new monitoring period shall be started pursuant to paragraph (b)(3) of this section, based on the percent of leaking connectors within the total monitored connectors.

(C) If the percent of leaking connectors calculated from the monitoring results in paragraph (b)(3)(iii)(A) of this section is less than 0.35 percent of the monitored connectors, the owner or operator shall monitor all connectors that have not yet been monitored within 8 years of the start of the monitoring period.

(iv) If, during the monitoring conducted pursuant to paragraphs (b)(3)(i) through (iii) of this section, a connector is found to be leaking, it shall be re-monitored once within 90 days after repair to confirm that it is not leaking.

(v) The owner or operator shall keep a record of the start date and end date of each monitoring period under this section for each process unit.

(c) For use in determining the monitoring frequency, as specified in paragraphs (a) and (b)(3) of this section, the percent leaking connectors as used in paragraphs (a) and (b)(3) of this section shall be calculated by using the following equation:

$\%C_L = C_L / C_t * 100$

Where:

$\%C_L$ = Percent of leaking connectors as determined through periodic monitoring required in paragraphs (a) and (b)(3)(i) through (iii) of this section.

C_L = Number of connectors measured at 500 ppm or greater, by the method specified in § 60.485a(b).

C_t = Total number of monitored connectors in the process unit or affected facility.

(d) When a leak is detected pursuant to paragraphs (a) and (b) of this section, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.482–9a. A first attempt at repair as defined in this subpart shall be made no later than 5 calendar days after the leak is detected.

(e) Any connector that is designated, as described in § 60.486a(f)(1), as an unsafe-to-monitor connector is exempt from the requirements of paragraphs (a) and (b) of this section if:

(1) The owner or operator of the connector demonstrates that the connector is unsafe-to-monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (a) and (b) of this section; and

(2) The owner or operator of the connector has a written plan that requires monitoring of the connector as frequently as practicable during safe-to-monitor times but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in paragraph (d) of this section if a leak is detected.

(f) *Inaccessible, ceramic, or ceramic-lined connectors.* (1) Any connector that is inaccessible or that is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined), is exempt from the monitoring requirements of paragraphs (a) and (b) of this section, from the leak repair requirements of paragraph (d) of this section, and from the recordkeeping and reporting requirements of §§ 63.1038 and 63.1039. An inaccessible connector is one that meets any of the provisions specified in paragraphs (f)(1)(i) through (vi) of this section, as applicable:

(i) Buried;

(ii) Insulated in a manner that prevents access to the connector by a monitor probe;

(iii) Obstructed by equipment or piping that prevents access to the connector by a monitor probe;

(iv) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold that would allow access to connectors up to 7.6 meters (25 feet) above the ground;

(v) Inaccessible because it would require elevating the monitoring personnel more than 2 meters (7 feet) above a permanent support surface or would require the erection of scaffold; or

(vi) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(2) If any inaccessible, ceramic, or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the visual, audible, olfactory, or other indications of a leak to the atmosphere shall be eliminated as soon as practical.

(g) Except for instrumentation systems and inaccessible, ceramic, or ceramic-lined connectors meeting the provisions of paragraph (f) of this section, identify the connectors subject to the requirements of this subpart. Connectors need not be individually identified if all connectors in a designated area or length of pipe subject to the provisions of this subpart are identified as a group, and the number of connectors subject is indicated.

§ 60.483–1a Alternative standards for valves—allowable percentage of valves leaking.

(a) An owner or operator may elect to comply with an allowable percentage of valves leaking of equal to or less than 2.0 percent.

(b) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of valves leaking:

(1) An owner or operator must notify the Administrator that the owner or operator has elected to comply with the allowable percentage of valves leaking before implementing this alternative standard, as specified in § 60.487a(d).

(2) A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Administrator.

(3) If a valve leak is detected, it shall be repaired in accordance with § 60.482–7a(d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves in gas/vapor and light liquid service within the affected facility shall be monitored within 1 week by the methods specified in § 60.485a(b).

(2) If an instrument reading of 500 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves in gas/vapor and light liquid service within the affected facility.

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent, determined as described in § 60.485a(h).

§ 60.483–2a Alternative standards for valves—skip period leak detection and repair.

(a)(1) An owner or operator may elect to comply with one of the alternative work practices specified in paragraphs (b)(2) and (3) of this section.

(2) An owner or operator must notify the Administrator before implementing one of the alternative work practices, as specified in § 60.487(d)a.

(b)(1) An owner or operator shall comply initially with the requirements for valves in gas/vapor service and valves in light liquid service, as described in § 60.482–7a.

(2) After 2 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 1 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(3) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 3 of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(4) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with the requirements as described in § 60.482–7a but can again elect to use this section.

(5) The percent of valves leaking shall be determined as described in § 60.485a(h).

(6) An owner or operator must keep a record of the percent of valves found leaking during each leak detection period.

(7) A valve that begins operation in gas/vapor service or light liquid service after the initial startup date for a process unit following one of the alternative standards in this section must be monitored in accordance with § 60.482–7a(a)(2)(i) or (ii) before the provisions of this section can be applied to that valve.

§ 60.484a Equivalence of means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart.

(b) Determination of equivalence to the equipment, design, and operational requirements of this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of means of emission limitation.

(2) The Administrator will compare test data for demonstrating equivalence of the means of emission limitation to test data for the equipment, design, and operational requirements.

(3) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment, design, and operational requirements.

(c) Determination of equivalence to the required work practices in this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate equivalence of an equivalent means of emission limitation.

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the required work practice shall be demonstrated.

(3) For each affected facility, for which a determination of equivalence is requested, the emission reduction achieved by the equivalent means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit in writing to work practice(s) that provide for emission reductions equal to or greater than the emission reductions achieved by the required work practice.

(5) The Administrator will compare the demonstrated emission reduction for the equivalent means of emission limitation to the demonstrated emission reduction for the required work practices and will consider the commitment in paragraph (c)(4) of this section.

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the required work practice.

(d) An owner or operator may offer a unique approach to demonstrate the equivalence of any equivalent means of emission limitation.

(e)(1) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing if the Administrator judges that the request may be approved.

(2) After notice and opportunity for public hearing, the Administrator will determine the equivalence of a means of emission limitation and will publish the determination in the **Federal Register**.

(3) Any equivalent means of emission limitations approved under this section shall constitute a required work practice, equipment, design, or operational standard within the meaning of section 111(h)(1) of the CAA.

(f)(1) Manufacturers of equipment used to control equipment leaks of VOC may apply to the Administrator for determination of equivalence for any equivalent means of emission limitation that achieves a reduction in emissions of VOC achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will make an equivalence determination according to the provisions of paragraphs (b), (c), (d), and (e) of this section.

§ 60.485a Test methods and procedures.

(a) In conducting the performance tests required in § 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b) The owner or operator shall determine compliance with the standards in §§ 60.482–1a through 60.482–11a, 60.483a, and 60.484a as follows:

(1) Method 21 shall be used to determine the presence of leaking sources. The instrument shall be calibrated before use each day of its use by the procedures specified in Method 21 of appendix A–7 of this part. The following calibration gases shall be used:

(i) Zero air (less than 10 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration no more than 2,000 ppm greater than the leak definition concentration of the equipment monitored. If the monitoring instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,000 ppm above the concentration specified as a leak, and the highest scale shall be calibrated with a calibration gas that is approximately equal to 10,000 ppm. If only one scale on an instrument will be used during monitoring, the owner or operator need not calibrate the scales that will not be used during that day's monitoring.

(2) A calibration drift assessment shall be performed, at a minimum, at the end of each monitoring day. Check the instrument using the same calibration gas(es) that were used to calibrate the instrument before use. Follow the procedures specified in Method 21 of appendix A–7 of this part, Section 10.1, except do not adjust the meter readout to correspond to the calibration gas value. Record the instrument reading for each scale used as specified in § 60.486a(e)(7). Calculate the average algebraic difference between the three meter readings and the most recent calibration value. Divide this algebraic difference by the initial calibration value and multiply by 100 to express the calibration drift as a percentage. If any calibration drift assessment shows a negative drift of more than 10 percent from the initial calibration value, then all equipment monitored since the last calibration with instrument readings below the appropriate leak definition and above the leak definition multiplied by (100 minus the percent of negative drift/divided by 100) must be re-monitored. If any calibration drift assessment shows a positive drift of more than 10 percent from the initial calibration value, then, at the owner/operator's discretion, all equipment since the last calibration with instrument readings above the appropriate leak definition and below the leak definition multiplied by (100 plus the percent of positive drift/divided by 100) may be re-monitored.

(c) The owner or operator shall determine compliance with the no-detectable-emission standards in §§ 60.482–2a(e), 60.482–3a(i), 60.482–4a, 60.482–7a(f), and 60.482–10a(e) as follows:

(1) The requirements of paragraph (b) shall apply.

(2) Method 21 of appendix A–7 of this part shall be used to determine the background level. All potential leak interfaces shall be traversed as close to the interface as possible. The arithmetic difference between the maximum

concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d) The owner or operator shall test each piece of equipment unless he demonstrates that a process unit is not in VOC service, i.e., that the VOC content would never be reasonably expected to exceed 10 percent by weight. For purposes of this demonstration, the following methods and procedures shall be used:

(1) Procedures that conform to the general methods in ASTM E260–73, 91, or 96, E168–67, 77, or 92, E169–63, 77, or 93 (incorporated by reference—see § 60.17) shall be used to determine the percent VOC content in the process fluid that is contained in or contacts a piece of equipment.

(2) Organic compounds that are considered by the Administrator to have negligible photochemical reactivity may be excluded from the total quantity of organic compounds in determining the VOC content of the process fluid.

(3) Engineering judgment may be used to estimate the VOC content, if a piece of equipment had not been shown previously to be in service. If the Administrator disagrees with the judgment, paragraphs (d)(1) and (2) of this section shall be used to resolve the disagreement.

(e) The owner or operator shall demonstrate that a piece of equipment is in light liquid service by showing that all the following conditions apply:

(1) The vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F). Standard reference texts or ASTM D2879–83, 96, or 97 (incorporated by reference—see § 60.17) shall be used to determine the vapor pressures.

(2) The total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20 °C (1.2 in. H_2O at 68 °F) is equal to or greater than 20 percent by weight.

(3) The fluid is a liquid at operating conditions.

(f) Samples used in conjunction with paragraphs (d), (e), and (g) of this section shall be representative of the process fluid that is contained in or contacts the equipment or the gas being combusted in the flare.

(g) The owner or operator shall determine compliance with the standards of flares as follows:

(1) Method 22 of appendix A–7 of this part shall be used to determine visible emissions.

(2) A thermocouple or any other equivalent device shall be used to monitor the presence of a pilot flame in the flare.

(3) The maximum permitted velocity for air assisted flares shall be computed using the following equation:

$$V_{max} = K_1 + K_2 H_T$$

Where:

V_{max} = Maximum permitted velocity, m/sec (ft/sec).

H_T = Net heating value of the gas being combusted, MJ/scm (Btu/scf).

K_1 = 8.706 m/sec (metric units) = 28.56 ft/sec (English units).

K_2 = 0.7084 m^4/(MJ-sec) (metric units) = 0.087 ft^4/(Btu-sec) (English units).

(4) The net heating value (HT) of the gas being combusted in a flare shall be computed using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

Where:

K = Conversion constant, 1.740×10^{-7} (g-mole)(MJ)/(ppm-scm-kcal) (metric units) = 4.674×10^{-6} [(g-mole)(Btu)/(ppm-scf-kcal)] (English units).

C_i = Concentration of sample component "i," ppm

H_i = net heat of combustion of sample component "i" at 25 °C and 760 mm Hg (77 °F and 14.7 psi), kcal/g-mole.

(5) Method 18 of appendix A–6 of this part or ASTM D6420–99 (2004) (where the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion by volume and 100 ppmv) and ASTM D2504–67, 77, or 88 (Reapproved 1993) (incorporated by reference-see § 60.17) shall be used to determine the concentration of sample component "i."

(6) ASTM D2382–76 or 88 or D4809–95 (incorporated by reference-see § 60.17) shall be used to determine the net heat of combustion of component "i" if published values are not available or cannot be calculated.

(7) Method 2, 2A, 2C, or 2D of appendix A–7 of this part, as appropriate, shall be used to determine the actual exit velocity of a flare. If needed, the unobstructed (free) cross-sectional area of the flare tip shall be used.

(h) The owner or operator shall determine compliance with § 60.483–1a or § 60.483–2a as follows:

(1) The percent of valves leaking shall be determined using the following equation:

$$\%V_L = (V_L / V_T) * 100$$

Where:

$\%V_L$ = Percent leaking valves.

V_L = Number of valves found leaking.

V_T = The sum of the total number of valves monitored.

(2) The total number of valves monitored shall include difficult-to-monitor and unsafe-to-monitor valves only during the monitoring period in which those valves are monitored.

(3) The number of valves leaking shall include valves for which repair has been delayed.

(4) Any new valve that is not monitored within 30 days of being placed in service shall be included in the number of valves leaking and the total number of valves monitored for the monitoring period in which the valve is placed in service.

(5) If the process unit has been subdivided in accordance with § 60.482–7a(c)(1)(ii), the sum of valves found leaking during a monitoring period includes all subgroups.

(6) The total number of valves monitored does not include a valve monitored to verify repair.

§ 60.486a Recordkeeping requirements.

(a)(1) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(2) An owner or operator of more than one affected facility subject to the provisions of this subpart may comply with the recordkeeping requirements for these facilities in one recordkeeping system if the system identifies each record by each facility.

(3) The owner or operator shall record the information specified in paragraphs (a)(3)(i) through (v) of this section for each monitoring event required by §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a.

(i) Monitoring instrument identification.

(ii) Operator identification.

(iii) Equipment identification.

(iv) Date of monitoring.

(v) Instrument reading.

(b) When each leak is detected as specified in §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(2) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in § 60.482–7a(c) and no leak has been detected during those 2 months.

(3) The identification on a connector may be removed after it has been monitored as specified in § 60.482–11a(b)(3)(iv) and no leak has been detected during that monitoring.

(4) The identification on equipment, except on a valve or connector, may be removed after it has been repaired.

(c) When each leak is detected as specified in §§ 60.482–2a, 60.482–3a, 60.482–7a, 60.482–8a, 60.482–11a, and 60.483–2a, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:

(1) The instrument and operator identification numbers and the equipment identification number, except when indications of liquids dripping from a pump are designated as a leak.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) Maximum instrument reading measured by Method 21 of appendix A–7 of this part at the time the leak is successfully repaired or determined to be nonrepairable, except when a pump is repaired by eliminating indications of liquids dripping.

(5) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) Dates of process unit shutdowns that occur while the equipment is unrepaired.

(9) The date of successful repair of the leak.

(d) The following information pertaining to the design requirements for closed vent systems and control devices described in § 60.482–10a shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any changes in the design specifications.

(3) A description of the parameter or parameters monitored, as required in § 60.482–10a(e), to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

(4) Periods when the closed vent systems and control devices required in §§ 60.482–2a, 60.482–3a, 60.482–4a, and 60.482–5a are not operated as designed, including periods when a flare pilot light does not have a flame.

(5) Dates of startups and shutdowns of the closed vent systems and control devices required in §§ 60.482–2a, 60.482–3a, 60.482–4a, and 60.482–5a.

(e) The following information pertaining to all equipment subject to the requirements in §§ 60.482–1a to 60.482–11a shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for equipment subject to the requirements of this subpart.

(2)(i) A list of identification numbers for equipment that are designated for no detectable emissions under the provisions of §§ 60.482–2a(e), 60.482–3a(i), and 60.482–7a(f).

(ii) The designation of equipment as subject to the requirements of § 60.482–2a(e), § 60.482–3a(i), or § 60.482–7a(f) shall be signed by the owner or operator. Alternatively, the owner or operator may establish a mechanism with their permitting authority that satisfies this requirement.

(3) A list of equipment identification numbers for pressure relief devices required to comply with § 60.482–4a.

(4)(i) The dates of each compliance test as required in §§ 60.482–2a(e), 60.482–3a(i), 60.482–4a, and 60.482–7a(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(5) A list of identification numbers for equipment in vacuum service.

(6) A list of identification numbers for equipment that the owner or operator designates as operating in VOC service less than 300 hr/yr in accordance with § 60.482–1a(e), a description of the conditions under which the equipment is in VOC service, and rationale supporting the designation that it is in VOC service less than 300 hr/yr.

(7) The date and results of the weekly visual inspection for indications of liquids dripping from pumps in light liquid service.

(8) Records of the information specified in paragraphs (e)(8)(i) through (vi) of this section for monitoring instrument calibrations conducted according to sections 8.1.2 and 10 of Method 21 of appendix A–7 of this part and § 60.485a(b).

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value in accordance with section 10.1 of Method 21 of appendix A–7 of this part.

(v) Results of each calibration drift assessment required by § 60.485a(b)(2) (i.e., instrument reading for calibration at end of monitoring day and the calculated percent difference from the initial calibration value).

(vi) If an owner or operator makes their own calibration gas, a description of the procedure used.

(9) The connector monitoring schedule for each process unit as specified in § 60.482–11a(b)(3)(v).

(10) Records of each release from a pressure relief device subject to § 60.482–4a.

(f) The following information pertaining to all valves subject to the requirements of § 60.482–7a(g) and (h), all pumps subject to the requirements of § 60.482–2a(g), and all connectors subject to the requirements of § 60.482–11a(e) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for valves, pumps, and connectors that are designated as unsafe-to-monitor, an explanation for each valve, pump, or connector stating why the valve, pump, or connector is unsafe-to-monitor, and the plan for monitoring each valve, pump, or connector.

(2) A list of identification numbers for valves that are designated as difficult-to-monitor, an explanation for each valve stating why the valve is difficult-to-monitor, and the schedule for monitoring each valve.

(g) The following information shall be recorded for valves complying with § 60.483–2a:

(1) A schedule of monitoring.

(2) The percent of valves found leaking during each monitoring period.

(h) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) Design criterion required in §§ 60.482–2a(d)(5) and 60.482–3a(e)(2) and explanation of the design criterion; and

(2) Any changes to this criterion and the reasons for the changes.

(i) The following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in § 60.480a(d):

(1) An analysis demonstrating the design capacity of the affected facility,

(2) A statement listing the feed or raw materials and products from the affected facilities and an analysis demonstrating whether these chemicals are heavy liquids or beverage alcohol, and

(3) An analysis demonstrating that equipment is not in VOC service.

(j) Information and data used to demonstrate that a piece of equipment is not in VOC service shall be recorded

in a log that is kept in a readily accessible location.

(k) The provisions of § 60.7(b) and (d) do not apply to affected facilities subject to this subpart.

§ 60.487a Reporting requirements.

(a) Each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the Administrator beginning 6 months after the initial startup date.

(b) The initial semiannual report to the Administrator shall include the following information:

(1) Process unit identification.

(2) Number of valves subject to the requirements of § 60.482–7a, excluding those valves designated for no detectable emissions under the provisions of § 60.482–7a(f).

(3) Number of pumps subject to the requirements of § 60.482–2a, excluding those pumps designated for no detectable emissions under the provisions of § 60.482–2a(e) and those pumps complying with § 60.482–2a(f).

(4) Number of compressors subject to the requirements of § 60.482–3a, excluding those compressors designated for no detectable emissions under the provisions of § 60.482–3a(i) and those compressors complying with § 60.482–3a(h).

(5) Number of connectors subject to the requirements of § 60.482–11a.

(c) All semiannual reports to the Administrator shall include the following information, summarized from the information in § 60.486a:

(1) Process unit identification.

(2) For each month during the semiannual reporting period,

(i) Number of valves for which leaks were detected as described in § 60.482–7a(b) or § 60.483–2a,

(ii) Number of valves for which leaks were not repaired as required in § 60.482–7a(d)(1),

(iii) Number of pumps for which leaks were detected as described in § 60.482–2a(b), (d)(4)(ii)(A) or (B), or (d)(5)(iii),

(iv) Number of pumps for which leaks were not repaired as required in § 60.482–2a(c)(1) and (d)(6),

(v) Number of compressors for which leaks were detected as described in § 60.482–3a(f),

(vi) Number of compressors for which leaks were not repaired as required in § 60.482–3a(g)(1),

(vii) Number of connectors for which leaks were detected as described in § 60.482–11a(b)

(viii) Number of connectors for which leaks were not repaired as required in § 60.482–11a(d), and

(xi) The facts that explain each delay of repair and, where appropriate, why a process unit shutdown was technically infeasible.

(3) Dates of process unit shutdowns which occurred within the semiannual reporting period.

(4) Revisions to items reported according to paragraph (b) of this section if changes have occurred since the initial report or subsequent revisions to the initial report.

(d) An owner or operator electing to comply with the provisions of §§ 60.483–1a or 60.483–2a shall notify the Administrator of the alternative standard selected 90 days before implementing either of the provisions.

(e) An owner or operator shall report the results of all performance tests in accordance with § 60.8 of the General Provisions. The provisions of § 60.8(d) do not apply to affected facilities subject to the provisions of this subpart except that an owner or operator must notify the Administrator of the schedule for the initial performance tests at least 30 days before the initial performance tests.

(f) The requirements of paragraphs (a) through (c) of this section remain in force until and unless EPA, in delegating enforcement authority to a state under section 111(c) of the CAA, approves reporting requirements or an alternative means of compliance surveillance adopted by such state. In that event, affected sources within the state will be relieved of the obligation to comply with the requirements of paragraphs (a) through (c) of this section, provided that they comply with the requirements established by the state.

§ 60.488a Reconstruction.

For the purposes of this subpart:

(a) The cost of the following frequently replaced components of the facility shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital costs that would be required to construct a comparable new facility" under § 60.15: Pump seals, nuts and bolts, rupture disks, and packings.

(b) Under § 60.15, the "fixed capital cost of new components" includes the fixed capital cost of all depreciable components (except components specified in § 60.488a(a)) which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following the applicability date for the appropriate subpart. (See the "Applicability and designation of affected facility" section of the appropriate subpart.) For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

§ 60.489a List of chemicals produced by affected facilities.

Process units that produce, as intermediates or final products, chemicals listed in § 60.489 are covered under this subpart. The applicability date for process units producing one or more of these chemicals is November 8, 2006.

Subpart GGG—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006

■ 21. The heading for Subpart GGG is revised as set out above.

■ 22. Section 60.590 is amended by revising paragraphs (b) and (d) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after January 4, 1983, and on or before November 7, 2006, is subject to the requirements of this subpart.

* * * * *

(d) Facilities subject to subpart VV, subpart VVa, or subpart KKK of this part are excluded from this subpart.

* * * * *

■ 23. Section 60.591 is amended by adding a definition of "Asphalt" in alphabetical order and revising the definition of "Process unit" to read as follows:

§ 60.591 Definitions.

* * * * *

Asphalt (also known as Bitumen) is a black or dark brown solid or semi-solid thermo-plastic material possessing waterproofing and adhesive properties. It is a complex combination of higher molecular weight organic compounds containing a relatively high proportion of hydrocarbons having carbon numbers greater than C25 with a high carbon to hydrogen ratio. It is essentially non-volatile at ambient temperatures with closed cup flash point of 445 °F (230 °C) or greater.

* * * * *

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

■ 24. Section 60.592 is amended by revising paragraph (b) to read as follows:

§ 60.592 Standards.

* * * * *

(b) For a given process unit, an owner or operator may elect to comply with the requirements of paragraphs (b)(1), (2), or (3) of this section as an alternative to the requirements in § 60.482–7.

(1) Comply with § 60.483–1.

(2) Comply with § 60.483–2.

(3) Comply with the Phase III provisions in 40 CFR 63.168, except an owner or operator may elect to follow the provisions in § 60.482–7(f) instead of 40 CFR 63.168 for any valve that is designated as being leakless.

* * * * *

■ 25. Section 60.593 is amended by:

■ a. Revising the first sentence of paragraph (b)(2);

■ b. Revising paragraphs (c) and (d); and

■ c. Adding paragraph (f) to read as follows:

§ 60.593 Exceptions.

* * * * *

(b) * * *

(2) Each compressor is presumed not to be in hydrogen service unless an owner or operator demonstrates that the piece of equipment is in hydrogen service. * * *

* * * * *

(c) Any existing reciprocating compressor that becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from § 60.482–3(a), (b), (c), (d), (e), and (h) provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of § 60.482–3(a), (b), (c), (d), (e), and (h).

(d) An owner or operator may use the following provision in addition to § 60.485(e): Equipment is in light liquid service if the percent evaporated is greater than 10 percent at 150 °C as determined by ASTM Method D86–78, 82, 90, 95, or 96 (incorporated by reference as specified in § 60.17).

* * * * *

(f) Open-ended valves or lines containing asphalt as defined in § 60.591 are exempt from the requirements of § 60.482–6(a) through (c).

■ 26. Part 60 is amended by adding subpart GGGa to read as follows:

Subpart GGGa—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006

Sec.

§ 60.590a Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in petroleum refineries.

(2) A compressor is an affected facility.

(3) The group of all the equipment (defined in § 60.591a) within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after November 7, 2006, is subject to the requirements of this subpart.

(c) Addition or replacement of equipment (defined in § 60.591a) for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d) Facilities subject to subpart VV, subpart VVa, subpart GGG, or subpart KKK of this part are excluded from this subpart.

§ 60.591a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act, in subpart A of part 60, or in subpart VVa of this part, and the following terms shall have the specific meanings given them.

Alaskan North Slope means the approximately 69,000 square mile area extending from the Brooks Range to the Arctic Ocean.

Asphalt (also known as Bitumen) is a black or dark brown solid or semi-solid thermo-plastic material possessing waterproofing and adhesive properties. It is a complex combination of higher molecular weight organic compounds containing a relatively high proportion of hydrocarbons having carbon numbers greater than C25 with a high carbon to hydrogen ratio. It is essentially non-volatile at ambient temperatures with closed cup flash point of 445 ° F (230 ° C) or greater.

Equipment means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service. For the purposes of recordkeeping and reporting only, compressors are considered equipment.

In hydrogen service means that a compressor contains a process fluid that meets the conditions specified in § 60.593a(b).

In light liquid service means that the piece of equipment contains a liquid that meets the conditions specified in § 60.593a(c).

Petroleum means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

Petroleum refinery means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives.

Process unit means the components assembled and connected by pipes or ducts to process raw materials and to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. For the purpose of this subpart, process unit includes any feed, intermediate and final product storage vessels (except as specified in § 60.482–1a(g)), product transfer racks, and connected ducts and piping. A process unit includes all equipment as defined in this subpart.

§ 60.592a Standards.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.482–1a to 60.482–10a as soon as practicable, but no later than 180 days after initial startup.

(b) For a given process unit, an owner or operator may elect to comply with the requirements of paragraphs (b)(1), (2), or (3) of this section as an alternative to the requirements in § 60.482–7a.

(1) Comply with § 60.483–1a.

(2) Comply with § 60.483–2a.

(3) Comply with the Phase III provisions in § 63.168, except an owner or operator may elect to follow the provisions in § 60.482–7a(f) instead of § 63.168 for any valve that is designated as being leakless.

(c) An owner or operator may apply to the Administrator for a determination of equivalency for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart. In doing so, the owner or operator shall comply with requirements of § 60.484a.

(d) Each owner or operator subject to the provisions of this subpart shall comply with the provisions of § 60.485a except as provided in § 60.593a.

(e) Each owner or operator subject to the provisions of this subpart shall comply with the provisions of §§ 60.486a and 60.487a.

§ 60.593a Exceptions.

(a) Each owner or operator subject to the provisions of this subpart may comply with the following exceptions to the provisions of subpart VVa of this part.

(b)(1) Compressors in hydrogen service are exempt from the requirements of § 60.592a if an owner or operator demonstrates that a compressor is in hydrogen service.

(2) Each compressor is presumed not to be in hydrogen service unless an owner or operator demonstrates that the piece of equipment is in hydrogen service. For a piece of equipment to be considered in hydrogen service, it must be determined that the percent hydrogen content can be reasonably expected always to exceed 50 percent by volume. For purposes of determining the percent hydrogen content in the process fluid that is contained in or contacts a compressor, procedures that conform to the general method described in ASTM E260–73, 91, or 96, E168–67, 77, or 92, or E169–63, 77, or 93 (incorporated by reference as specified in § 60.17) shall be used.

(3)(i) An owner or operator may use engineering judgment rather than procedures in paragraph (b)(2) of this section to demonstrate that the percent content exceeds 50 percent by volume, provided the engineering judgment demonstrates that the content clearly exceeds 50 percent by volume. When an owner or operator and the Administrator do not agree on whether a piece of equipment is in hydrogen service, however, the procedures in paragraph (b)(2) of this section shall be used to resolve the disagreement.

(ii) If an owner or operator determines that a piece of equipment is in hydrogen service, the determination can be revised only after following the procedures in paragraph (b)(2).

(c) Any existing reciprocating compressor that becomes an affected facility under provisions of § 60.14 or § 60.15 is exempt from § 60.482–3a(a), (b), (c), (d), (e), and (h) provided the owner or operator demonstrates that recasting the distance piece or replacing the compressor are the only options available to bring the compressor into compliance with the provisions of § 60.482–3a(a), (b), (c), (d), (e), and (h).

(d) An owner or operator may use the following provision in addition to § 60.485a(e): Equipment is in light liquid service if the percent evaporated is greater than 10 percent at 150 °C as determined by ASTM Method D86–78, 82, 90, 93, 95, or 96 (incorporated by reference as specified in § 60.17).

(e) Pumps in light liquid service and valves in gas/vapor and light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the requirements of §§ 60.482–2a and 60.482–7a.

(f) Open-ended valves or lines containing asphalt as defined in § 60.591a are exempt from the requirements of § 60.482–6a(a) through (c).

(g) Connectors in gas/vapor or light liquid service are exempt from the requirements in § 60.482–11a, provided the owner or operator complies with § 60.482–8a for all connectors, not just those in heavy liquid service.

PART 63—[AMENDED]

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

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

Subpart A—[Amended]

■ 28. Section 63.14 is amended by revising paragraph (b)(28) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(28) ASTM D6420–99 (Reapproved 2004), Standards Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectometry, IBR approved for §§ 60.485(g)(5), 60.485a(g)(5), 63.772(a)(1)(ii), 63.2354(b)(3)(i), 63.2354(b)(3)(ii), 63.2354(b)(3)(ii)(A), and 63.2351(b)(3)(ii)(B).

* * * * *

[FR Doc. E7–21814 Filed 11–15–07; 8:45 am]

BILLING CODE 6560–50–P

TABLE 1 TO SUBPART WWWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART WWWWW—Continued

Citation	Subject	Applies to subpart WWWWW	Explanation
§ 63.1(c)(1)–(2)	Applicability of this part after a relevant standard has been set.	Yes	§ 63.10446 of this subpart exempts affected sources from the obligation to obtain title V operating permits for purposes of being subject to this subpart.
§ 63.1(c)(3)–(4)	[Reserved].		
§ 63.1(c)(5)	Subject to notification requirements	No.	
§ 63.1(d)	[Reserved].		
§ 63.1(e)	Emission limitation by permit	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities	Yes.	
§ 63.5	Construction/reconstruction	No.	
§ 63.6(a), (b)(1)–(5), (7)	Compliance with standards and maintenance requirements.	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(c)(1)	Compliance dates for existing sources	Yes	Subpart WWWWW requires compliance 1 year after the effective date.
§ 63.6(c)(2), (5)	Compliance dates for CAA section 112(f) standards and for area sources that become major.	No.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(d)	[Reserved].		
§ 63.6(e)–(h)	Alternative nonopacity emission standard.	No.	
§ 63.6(i)–(j)	Compliance extension	Yes.	
§ 63.7	Performance testing requirements	No.	
§ 63.8	Monitoring requirements	No.	
§ 63.9(a)	Applicability and initial notifications addressees.	Yes.	
§ 63.9(b)	Initial notifications	No.	
§ 63.9(c)	Request for extension of compliance	Yes.	
§ 63.9(d)–(j)	Other notifications	No.	
§ 63.10(a)(1)–(2)	Recordkeeping and reporting requirements, applicability.	Yes.	
§ 63.10(a)(3)–(4)	General information	Yes.	
§ 63.10(a)(5)–(7)	Recordkeeping and reporting requirements, reporting schedules.	No.	
§ 63.10(b)(1)	Retention time	Yes.	
§ 63.10(b)(2)–(f)	Recordkeeping and reporting requirements.	No.	
§ 63.11	Control device requirements	No.	
§ 63.12	State authority and delegations	Yes.	
§§ 63.13–63.16	Addresses, Incorporations by Reference, availability of information, performance track provisions.	Yes.	

[FR Doc. E7–25233 Filed 12–27–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[EPA–HQ–OAR–2007–0429; FRL–8511–7]

RIN 2060–A045

Revisions to Consolidated Federal Air Rule; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: The EPA issued a final rule on August 27, 2007 (effective date November 26, 2007) that revised the General Provisions for Consolidated Federal Air Rule to allow extensions to the deadline imposed for source owners and operators to conduct required performance tests in specified force majeure circumstances. The final rule inadvertently stated that we were revising paragraph (c) introductory text when we actually added introductory text to paragraph (c). The purpose of this action is to correct this error.

This action merely addresses a formatting issue. Thus, it is proper to issue this notice without notice and comment. Section 553 of the Administrative Procedure Act (APA), 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. We have determined that there is good cause for making this action final without prior proposal and opportunity for comment because the change to the rule is a minor technical correction, is noncontroversial, and does not substantively change the agency actions taken in the final rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

DATES: This correction is effective December 28, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Lula Melton, Air Quality Assessment Division (C304–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2910; fax number: (919) 541–4511; e-mail address *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The EPA issued a final rule on August 27, 2007 (72 FR 48938) that allows source owners or operators, in the event of a force majeure, to petition the Administrator for an extension of the deadline(s) by which they are required to conduct a performance test required by the Consolidated Federal Air Rule. A "force majeure" 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 the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe, despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

II. Summary of Amendment

The EPA promulgated revisions to the General Provisions for Consolidated Federal Air Rule on August 27, 2007. Afterwards, we realized that we inadvertently stated that we were revising paragraph (c) introductory text when we actually added introductory text to paragraph (c). The purpose of this action is to correct this error.

III. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget (OMB). This action is not a "major rule" as defined by 5 U.S.C. 804(2). The technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA)(Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The correction does not have a substantial direct effect on the States, or on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999).

Today's action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). The technical correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because this action is not economically significant.

The correction is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because this action is not a significant regulatory action under Executive Order 12866.

The correction does not involve changes to the technical standards related to test methods or monitoring requirements; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the U.S. The EPA will submit a report containing this final action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of today's action in the **Federal Register**. Today's action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective December 28, 2007.

List of Subjects in 40 CFR Part 65

Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 20, 2007.

Robert J. Meyers,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

■ For the reasons stated in the preamble, title 40, chapter I, part 65 of the Code of Federal Regulations is amended as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

Subpart A—[Amended]

■ 2. In § 65.157, introductory text for paragraph (c) is added following the paragraph (c) heading to read as follows:

§ 65.157 Performance test and flare compliance determination requirements.

* * * * *

(c) * * * Except as specified in paragraphs (c)(1)(viii), (c)(1)(ix), (c)(1)(x), and (c)(1)(xi) of this section, unless a waiver of performance testing or flare compliance determination is obtained under this section or the conditions of another subpart of this part, the owner or operator shall perform such tests specified in the following:

* * * * *

[FR Doc. E7–25293 Filed 12–27–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0116; FRL–8342–7]

Dimethenamid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of dimethenamid in or on hop, dried cones; pumpkin, radish (roots and tops); rutabaga (roots and tops); turnip greens; turnip (roots and tops); and winter squash. The

conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. In cases where the amount in dispute is $50,000 or less and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, convert the appeal to a SMALL CLAIMS (EXPEDITED) proceeding and at the conclusion of the hearing, after entertaining such oral arguments as he or she deems appropriate, render on the record oral summary findings of fact, conclusions of law, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a printed copy of such oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under § 955.30.

(c) At the request of Respondent, or on its own initiative, the Board may determine whether the amount in dispute and/or the appellant's status make the election of the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure inappropriate.

(d) *Motions for Reconsideration in Cases Arising Under § 955.13.* Motions for reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be decided within the time periods prescribed by this § 955.13 for the initial decision of the appeal, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this section.

(e) Except as herein modified, the rules of this part 955 otherwise apply in all aspects.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E7–12491 Filed 6–28–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 50 to 51, revised as of July 1, 2006, in Appendix S to Part 51, on page 483, reinstate paragraph II.A.4(iii) to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II.* * *

A.* * *

4.* * *

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this ruling whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

[FR Doc. 07–55507 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§§ 63.600 to 63.1199), revised as of July 1, 2006, in § 63.1103, paragraph (e)(2), on page 547, in alphabetical order, add the definition of "Organic HAP" to read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(e)* * *

(2)* * *

Organic HAP means the compounds listed in Table 1 to subpart XX of this part.

* * * * *

[FR Doc. 07–55506 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

Worker Protection Standard

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 150 to 189, revised as of July 1, 2006, in § 170.112, on page 212, paragraph (a)(1) is corrected to read as follows:

§ 170.112 Entry restrictions.

(a) * * * (1) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

* * * * *

[FR Doc. 07–55508 Filed 6–28–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2002–0043; FRL–8131–3]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

Federal Register

Friday,
January 18, 2008

Part III

Environmental Protection Agency

40 CFR Parts 60, 63, 85 et al.

Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 85, 90, 1048, 1065, and 1068

[EPA–HQ–OAR–2005–0030, FRL–8512–4]

RIN 2060–AM81

Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating new source standards of performance for stationary spark ignition internal combustion engines. EPA is also promulgating national emission standards for hazardous air pollutants for new and reconstructed stationary reciprocating internal combustion engines that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions.

DATES: This final rule is effective on March 18, 2008. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of March 18, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2005–0030. EPA also relies on materials in Docket ID No. EPA–HQ–OAR–2005–0029 and incorporates that docket into the record for the final rule. All documents in the docket are listed on the *www.regulations.gov* Web site. 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, 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 *www.regulations.gov* or in hard copy at the EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation will be 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 Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagán, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5340; facsimile number (919) 541–5450; e-mail address *pagan.jaime@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background Information Document. EPA proposed new source performance standards (NSPS) for stationary spark ignition internal combustion engines, and national emission standards for hazardous air pollutants (NESHAP) for stationary reciprocating internal combustion engines that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions, on June 12, 2006 (71 FR 33803), and received 46 comment letters on the proposal. A background information document BID) ("Response to Public Comments on Proposed Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines") containing EPA's responses to each public comment and the Economic Impact Analysis Report are available in Docket ID No. EPA–HQ–OAR–2005–0030.

Organization of This Document. The following outline is provided to aid in locating information in the preamble.

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action include:

Category	NAICS [1]	Examples of regulated entities
Any manufacturer that produces or any industry using a stationary internal combustion engine as defined in the final rule.	2211	Electric power generation, transmission, or distribution.
	622110	Medical and surgical hospitals.
	335312	Motor and generator manufacturing.
	333912	Pump and compressor manufacturing.
	333992	Welding and soldering equipment manufacturing.
	48621	Natural gas transmission.
	211111	Crude petroleum and natural gas production.
	211112	Natural gas liquids producers.
	92811	National security.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your engine is regulated by this action, you should examine the applicability criteria of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 14, 2007. Under section 307(d)(7)(B) of the CAA, only an objection to these final rules 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 established by these final rules may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

D. Why is EPA not promulgating a final decision for existing stationary reciprocating internal combustion engines?

In the notice of proposed rulemaking for this rule, published on April 12, 2006, EPA proposed maximum achievable control technology (MACT) and generally available control technology (GACT) standards of no emission reductions for existing engines. During the comment period following the proposal, EPA received several comments indicating that the proposed emission standards for existing engines were not appropriate. In addition, since the publication of the proposed rulemaking, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling on March 13, 2007 involving litigation on the Brick MACT, which set emission standards for major sources. (40 CFR part 63, subpart JJJJJ) that appears to impact EPA's ability to finalize its proposed "no reduction" MACT standards for existing sources. *Sierra Club* v. *EPA*, 479 F.3d 875 (DC Cir 2007). Among other things, the D.C. Circuit found unlawful EPA's no emission reduction control floors, which EPA established for categories in which the best performers used no emission reduction control technology. Because in the proposed rule EPA used a MACT floor methodology similar to the methodology used in the Brick MACT, EPA intends to re-evaluate the MACT floors for existing major sources that have a site rating of less than or equal to 500 brake horsepower consistent with the Court's decision in the Brick MACT case. EPA also intends to re-evaluate the standards for existing area sources in light of the comments received on the proposed rule.

For these reasons, this final rule does not promulgate any standards with regards to existing engines. EPA's plan is to engage in a separate rulemaking process that will focus on existing sources. EPA intends to gather further information on existing engines and then promulgate standards that will take into account the comments it has received, the intervening court decision, and any new information EPA receives as a part of the rulemaking process. EPA expects to propose standards early in 2009.

II. Background

This action promulgates new source performance standards (NSPS) that would apply to new, modified and reconstructed stationary spark ignition (SI) internal combustion engines (ICE). New source performance standards implement section 111(b) of the CAA, and are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The standards apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for those sources is proposed. The NSPS for stationary SI ICE is promulgated under 40 CFR part 60, subpart JJJJ.

This action also promulgates national emission standards for hazardous air pollutants (NESHAP) from new and reconstructed stationary reciprocating internal combustion engines (RICE) with a site rating of less than or equal to 500 horsepower (HP) located at major sources, and new and reconstructed

stationary RICE located at area sources. The NESHAP are promulgated under 40 CFR part 63, subpart ZZZZ.

III. Summary of the Final Rule

A. What is the source category regulated by the final rule?

The final NSPS apply to new stationary SI ICE. A stationary internal combustion engine means any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 CFR 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines. The final NESHAP apply only to stationary RICE. To our knowledge, no rotary or other types of stationary ICE exist at this time.

The SI NSPS address emissions from new, modified and reconstructed stationary SI engines. An SI engine is either a gasoline-fueled engine; or any other type of engine, with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are considered SI engines for purposes of the final rule.

The final NESHAP address emissions from new and reconstructed stationary engines less than or equal to 500 HP located at major sources and all new and reconstructed stationary engines located at area sources. A major source of HAP emissions is a plant site that emits or has the potential to emit any single hazardous air pollutant (HAP) at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year, except that for oil and gas production facilities, a major source of HAP emissions is determined for each surface site. An area source of HAP emissions is a source that is not a major source.

If you are an owner or operator of an area source subject to the final rule, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under the final rule.

1. SI NSPS

New source performance standards for stationary SI engines are issued under section 111(b) of the CAA. All new, modified and reconstructed stationary SI engines are covered regardless of size. The NSPS apply to stationary SI engines combusting any fuel (natural gas, gasoline, liquefied petroleum gas (LPG), compressed natural gas, landfill gas, digester gas, and any other applicable fuel). New source performance standards require these sources to control emissions to the level achievable by best demonstrated technology (BDT), considering costs and any non-air quality health and environmental impacts and energy requirements.

Under section 111 of the CAA, 42 U.S.C. 7411, the Administrator is required to publish, and periodically update, a list of source categories that in his or her judgment cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. This list appears in 40 CFR 60.16. The list reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and it is intended to identify major source categories for which standards of performance are to be promulgated.

EPA has determined that for purposes of NSPS regulations, the stationary internal combustion engine source category should be split into two source categories—SI engines and compression ignition (CI) engines. Final NSPS for stationary CI engines were published on July 11, 2006 (71 FR 39154).

2. NESHAP

The NESHAP portion of this action is a revision to the regulations in 40 CFR part 63, subpart ZZZZ, currently applicable to stationary RICE greater than 500 HP located at major sources, which were promulgated in 2004. When the subpart ZZZZ of 40 CFR part 63 regulations were promulgated in 2004 (69 FR 33474), EPA deferred promulgating regulations with respect to stationary engines 500 HP or less at major sources until further information on the engines could be obtained and analyzed. It was decided to regulate these smaller engines at the same time as EPA regulates engines located at area sources.

This action revises 40 CFR part 63, subpart ZZZZ, in order to address HAP emissions from new and reconstructed stationary RICE less than or equal to 500 HP located at major sources and new and reconstructed stationary RICE located at area sources. For stationary engines less than or equal to 500 HP at major sources, EPA must determine what is the appropriate MACT for those engines under section 112(d)(3) of the CAA.

For stationary engines located at area sources, EPA has the flexibility to promulgate standards based on GACT under CAA section 112(d)(5). EPA listed stationary RICE located at area sources under sections 112(c)(3) and 112(k) of the CAA, and consistent with section 112(c)(3) is establishing standards for the source category in this final rule. The criteria relevant to EPA's listing of this area source category is set forth in the Urban Air Toxics Strategy described in the paragraph below.

On July 19, 1999, EPA announced in the **Federal Register** its plan for addressing exposure to air toxics in urban areas. The strategy addressed sections 112(c)(3) and 112(k)(3)(B)(ii) of the CAA that instruct EPA to identify not less than 30 HAP which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas, and to list sufficient area source categories or subcategories to ensure that emissions representing 90 percent of the 30 listed HAP are subject to regulation. The strategy included a list of 30 HAP judged to pose the greatest potential threat to public health in the largest number of urban areas (the urban HAP). In the strategy, EPA also listed the area source categories that account for 90 percent of the urban HAP emissions. EPA listed the stationary internal combustion engine source category under section 112(c)(3) and (k) for the following urban HAP: 7 PAH, acetaldehyde, arsenic, benzene, beryllium compounds, cadmium compounds and formaldehyde. Pursuant to section 112(c), the listed area source categories shall be subject to standards under section 112(d) of the CAA.

3. Differentiation by Fuel Type

The final rule differentiates between gasoline, LPG, natural gas, and digester and landfill gas. Gasoline and LPG are fuels more commonly used in nonroad engines than stationary engines. Nonroad SI engines less than or equal to 19 kilowatt (KW) (25 HP) typically use gasoline. It is estimated that about 68 percent of SI nonroad engines above 19 KW (25 HP) use LPG. A smaller

percentage of nonroad SI engines above 19 KW (25 HP) use gasoline (about 23 percent) and even less use compressed natural gas (about 9 percent). Natural gas fuel is more common in larger, stationary applications. Natural gas engines refer to all gaseous-fueled engines except those fueled by landfill and digester gas. Natural gas is primarily composed of methane and typically contains very low levels of sulfur. Other fuels used with stationary SI engines are landfill and digester gases. These gases are by-products of wastewater treatment and land application of municipal reuse. Landfill and digester gases, which are formed through anaerobic decomposition of organic materials, are principally comprised of methane and carbon dioxide, but small quantities of other compounds such as hydrogen sulfide, ammonia, volatile organic compounds, and particulate matter (PM) may also be present. Although similar in composition to natural gas, there are some differences in the emissions from combustion of landfill and digester gases due to e.g., chlorinated compounds are typically not found in natural gas. Both landfill and digester gases contain a family of silicon-based gases collectively called siloxanes. Combustion of siloxanes forms compounds that have been known to foul fuel systems, combustion chambers, and post-combustion catalysts.

B. What are the pollutants regulated by the final rule?

The pollutants to be regulated by the final NSPS for stationary SI engines are nitrogen oxides (NO_X), carbon monoxide (CO), and volatile organic compounds (VOC). In addition, a sulfur limit on gasoline is being finalized.

The final NESHAP regulate HAP (for areas sources, the NESHAP regulates the seven urban HAP listed above) through formaldehyde, CO, or VOC which EPA has established are appropriate surrogates for HAP emissions from certain engine types.

C. What are the final standards?

A description of the final standards is provided in the following sections.

1. SI NSPS

a. Stationary SI Engines ≤19 KW (25 HP). The final standards affect manufacturers, owners, and operators of stationary SI engines. Engine manufacturers must certify their stationary SI engines with a maximum engine power less than or equal to 19 KW (25 HP) that are manufactured after July 1, 2008, to the certification emission standards for new nonroad SI engines in 40 CFR part 90, as applicable. The standards applicable to these engines are summarized in Table 1 of this preamble.

TABLE 1.—NO_X, HC, NMHC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR STATIONARY SI ENGINES >19 KW (25 HP)

Engine class[a]	Emission standards in g/KW-hr (g/HP-hr)[b]		
	$HC+NO_X$	$NMHC+NO_X$[c]	CO
I	16.1 (12.0)	14.8 (11.0)	610 (455)
I–A	50 37	....	
I–B	40 (30)	37 (27.6)	
II	12.1 (9.0)	11.3 (8.4)	

[a] Class I–A: Engines with displacement less than 66 cubic centimeters (cc); Class I–B: Engines with displacement greater than or equal to 66 cc and less than 100 cc; Class I: Engines with displacement greater than or equal to 100 cc and less than 225 cc; Class II: Engines with displacement greater than or equal to 225 cc.

[b] Modified and reconstructed engines manufactured prior to July 1, 2008, must meet the standards applicable to engines manufactured after July 1, 2008.

[c] $NMHC+NO_X$ standards are applicable only to natural gas fueled engines at the option of the manufacturer, in lieu of $HC+NO_X$ standards.

b. Stationary Non-Emergency SI Gasoline Engines >19 KW (25 HP) and Rich Burn LPG Engines >19 KW (25 HP). Engine manufacturers must certify their stationary non-emergency SI engines with a maximum engine power greater than 19 KW (25 HP) and less than 500 HP that use gasoline or rich burn engines greater than 19 KW (25 HP) and less than 500 HP that use LPG that are manufactured after July 1, 2008, to the certification emission standards for new nonroad SI engines in 40 CFR part 1048, as applicable. Engine manufacturers must certify their stationary non-emergency SI engines with a maximum engine power greater than or equal to 500 HP that use gasoline or rich burn engines greater than or equal to 500 HP that use LPG that are manufactured after July 1, 2007, to the certification emission standards for new nonroad SI engines in 40 CFR part 1048. The standards applicable to manufacturers of non-emergency engines greater than 19 KW (25 HP) that are gasoline or rich burn engines that use LPG are summarized in Table 2 of this preamble.

TABLE 2.—NO_X, HC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR MANUFACTURERS OF STATIONARY NON-EMERGENCY SI GASOLINE ENGINES >19 KW (25 HP) AND RICH BURN LPG ENGINES >19 KW (25 HP)

Maximum engine power	Manufacture date	Emission requirement in g/KW-hr (g/HP-hr)[a, b]	
		$HC+NO_X$	CO
25<HP<500[c]	July 1, 2008	2.7 (2.0)	4.4 (3.3)
	July 1, 2008 (severe duty[e])	2.7 (2.0)	130.0 (97.0)

TABLE 2.—NO_X, HC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR MANUFACTURERS OF STATIONARY NON-EMERGENCY SI GASOLINE ENGINES >19 KW (25 HP) AND RICH BURN LPG ENGINES >19 KW (25 HP)—Continued

Maximum engine power	Manufacture date	Emission requirement in g/KW-hr (g/HP-hr) [a, b]	
		$HC+NO_X$	CO
HP≥500 [d]	July 1, 2007	2.7 (2.0)	4.4 (3.3)
	July 1, 2007 (severe duty [e])	2.7 (2.0)	130.0 (97.0)

[a] You may optionally certify your engines according to the following formula instead of the standards in Table 2 of this preamble: $(HC+NO_X)CO^{0.784} \leq 8.57$. The $HC+NO_X$ and CO emission levels you select to satisfy this formula, rounded to the nearest 0.1 g/KW-hr, become the emission standards that apply for those engines. You may not select an $HC+NO_X$ emission standard higher than 2.7 g/KW-hr or a CO emission standard higher than 20.6 g/KW-hr.

[b] Provisions in 40 CFR part 1048 allow engines with a maximum engine power at or below 30 KW (40 HP) with a total displacement at or below 1,000 cubic centimeters (cc) to comply with the requirements of 40 CFR part 90.

[c] Modified and reconstructed engines between 25 and 500 HP manufactured prior to July 1, 2008, must meet the standards applicable to engines manufactured after July 1, 2008.

[d] Modified and reconstructed engines greater than or equal to 500 HP manufactured prior to July 1, 2007, must meet the standards applicable to engines manufactured after July 1, 2007.

[e] Severe-duty engines are engines used in, for example, concrete saws, concrete pumps, and similar severe applications where air-cooled engines must be used. There are expected to be very few, if any, severe-duty stationary engines.

In addition to the emission standards shown in Table 2 of this preamble, there are separate field testing standards required under 40 CFR part 1048 that are part of the certification requirements for engine manufacturers.

c. Stationary Non-Emergency SI Natural Gas Engines 19<KW<75 (25<HP<100) and Lean Burn LPG Engines 19<KW<75 (25<HP<100). Engine manufacturers have the option to certify their stationary non-emergency SI natural gas engines between 25 HP and 100 HP and lean burn LPG engines between 25 HP and 100 HP to the certification emission standards in 40 CFR part 1048, as shown in Table 2 of this preamble. However, the certification is only voluntary, and it is up to the manufacturer to decide if it believes certification is feasible and beneficial. Engine manufacturers may certify engines between 19 and 30 KW (25 and 40 HP) with a displacement of 1,000 cc or less to the provisions of 40 CFR part 90 (shown in Table 1 of this preamble), which is consistent with similar provisions applicable to nonroad engines in this displacement and size category. In addition, for engines manufactured prior to January 1, 2011, manufacturers may alternatively certify to the standards summarized in Table 4 of this preamble applicable to engines greater than or equal to 100 HP and less than 500 HP.

Owners and operators who purchase stationary SI engines with a maximum engine power between 19 and 75 KW (25 and 100 HP) that are natural gas engines or lean burn engines using LPG that are manufactured after July 1, 2008, must meet the NO_X, HC, and CO emission standards in 40 CFR 1048.101(c), as summarized in Table 3 of this preamble.

TABLE 3.—NO_X, HC, AND CO EMISSION STANDARDS IN G/KW-HR (G/HP-HR) FOR OWNERS/OPERATORS OF STATIONARY NON-EMERGENCY SI NATURAL GAS ENGINES 19<KW<75 (25<HP<100) AND LEAN BURN LPG ENGINES 19<KW<75 (25<HP<100)

Maximum engine power	Manufacture date	Emission requirement in g/KW-hr (g/HP-hr) [a, b]	
		$HC+NO_X$	CO
25<HP<100 [c]	July 1, 2008	3.8 (2.8)	6.5 (4.8)
	July 1, 2008 (severe duty)	3.8 (2.8)	200.0 (149.2)

[a] You may apply the following formula to determine alternate emission standards that apply to your engines instead of the standards in paragraph in Table 3 of this preamble: $(HC+NO_X) \times CO^{0.791} \leq 16.78$. $HC+NO_X$ emission levels may not exceed 3.8 g/kW-hr and CO emission levels may not exceed 31.0 g/kW-hr.

[b] For natural gas fueled engines, you are not required to measure non-methane hydrocarbon emissions or total hydrocarbon emissions for testing to show that the engine meets the emission standards of Table 3 of this preamble; that is, you may assume HC emissions are equal to zero.

[c] Modified and reconstructed engines between 25 and 100 HP manufactured prior to July 1, 2008, must meet the standards applicable to engines manufactured after July 1, 2008.

d. Stationary Non-Emergency SI Natural Gas Engines ≥100 HP and Lean Burn LPG Engines ≥100 HP. Owners and operators who purchase stationary SI engines with a maximum engine power between 100 HP and 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured between July 1, 2008 and January 1, 2011, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of VOC to 1.0 g/HP-hr. Owners and operators may as an alternative limit their exhaust emissions of NO_X to 160 parts per million by volume, dry basis (ppmvd) at 15 percent oxygen (O_2), emissions of CO to 540 ppmvd at 15 percent O_2, and emissions of VOC to 86 ppmvd at 15 percent O_2 instead of the g/HP-hr limits.

Stationary SI engines with a maximum engine power between 100 HP and 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after January 1, 2011, must limit their exhaust emissions of NO_X to 1.0 g/HP-hr, emissions of CO to 2.0 g/HP-hr, and emissions of VOC to 0.7 g/HP-hr. Again, owners and operators may as an alternative limit their exhaust emissions of NO_X to 82 ppmvd at 15 percent O_2, emissions of CO to 270 ppmvd at 15 percent O_2, and emissions of VOC to 60 ppmvd at 15 percent O_2 instead of the g/HP-hr limits.

Owners and operators who purchase stationary SI engines with a maximum engine power greater than or equal to 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after July 1, 2007, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of VOC to 1.0 g/HP-hr, except that these standards apply to lean burn engines between 500 and 1,350 HP manufactured after January 1, 2008. Instead of complying with limits in terms of g/HP-hr, owners and operators may limit their exhaust emissions of NO_X to 160 ppmvd at 15 percent O_2, emissions of CO to 540 ppmvd at 15 percent O_2, and emissions of VOC to 86 ppmvd at 15 percent O_2.

Stationary SI engines with a maximum engine power greater than or equal to 500 HP that are natural gas engines or lean burn engines using LPG that are manufactured after July 1, 2010, must limit their exhaust emissions of NO_X to 1.0 g/HP-hr, emissions of CO to 2.0 g/HP-hr, and emissions of VOC to 0.7 g/HP-hr. Instead of complying with limits in terms of g/HP-hr, owners and operators may limit their exhaust emissions of NO_X to 82 ppmvd at 15 percent O_2, emissions of CO to 270 ppmvd at 15 percent O_2, and emissions of VOC to 60 ppmvd at 15 percent O_2.

Engine manufacturers may voluntarily certify their stationary non-emergency SI natural gas engines greater than or equal to 100 HP and lean burn LPG engines greater than or equal to 100 HP, but the certification is not required by the rule. Additionally, for natural gas engines below 500 HP manufactured prior to January 1, 2011, and natural gas engines greater than or equal to 500 HP manufactured prior to July 1, 2010, engine manufacturers may choose to certify their engines to the standards for non-severe duty engines in 40 CFR part 1048 (see Table 2 of this preamble).

A summary of the emission standards that apply to stationary non-emergency SI natural gas engines greater than or equal to 100 HP and lean burn LPG engines greater than or equal to 100 HP are shown in Table 4 of this preamble.

For lean burn LPG engines greater than or equal to 100 HP, manufacturers may certify these engines to the certification emission standards in 40 CFR part 1048 instead of the emission standards shown in Table 4 of this preamble.

TABLE 4.—NO_X, CO, AND VOC EMISSION STANDARDS FOR STATIONARY SI ENGINES ≥100 HP (EXCEPT GASOLINE AND RICH BURN LPG), STATIONARY SI LANDFILL/DIGESTER GAS ENGINES, AND STATIONARY EMERGENCY ENGINES >25 HP

Engine type and fuel	Maximum engine power	Manufacture date	Emission standards[a]					
			g/HP-hr			ppmvd at 15% O_2		
			NO_X	CO	VOC	NO_X	CO	VOC
Non-Emergency SI Natural Gas and Non-Emergency SI Lean Burn LPG.	100≤HP<500	7/1/2008	2.0	4.0	1.0	160	540	86
		1/1/2011	1.0	2.0	0.7	82	270	60
Non-Emergency SI Lean Burn Natural Gas and LPG.	500≥HP<1,350	1/1/2008	2.0	4.0	1.0	160	540	86
		7/1/2010	1.0	2.0	0.7	82	270	60
Non-Emergency SI Natural Gas and Non-Emergency SI Lean Burn LPG (except lean burn 500≥HP<1,350).	HP≥500	7/1/2007	2.0	4.0	1.0	160	540	86
	HP≥500	7/1/2010	1.0	2.0	0.7	82	270	60
Landfill/Digester Gas (except lean burn 500≥HP<1,350).	HP<500	7/1/2008	3.0	5.0	1.0	220	610	80
		1/1/2011	2.0	5.0	1.0	150	610	80
	HP≥500	7/1/2007	3.0	5.0	1.0	220	610	80
		7/1/2010	2.0	5.0	1.0	150	610	80
Landfill/Digester Gas lean burn	500≥HP<1,350	1/1/2008	3.0	5.0	1.0	220	610	80
		7/1/2010	2.0	5.0	1.0	150	610	80
Emergency	25>HP<130	1/1/2009	[b] 10	387	N/A	N/A	N/A	N/A
	HP≥130		2.0	4.0	1.0	160	540	86

[a] Owners and operators of stationary non-certified SI engines may choose to comply with the emission standards in units of either g/HP-hr or ppmvd at 15 percent O_2.

[b] The emission standards applicable to emergency engines between 25 HP and 130 HP are in terms of NO_X+HC.

e. Stationary SI Landfill/Digester Gas Engines. Owners and operators who purchase stationary landfill or digester SI engines that are manufactured after July 1, 2007, that are greater than or equal to 500 HP must limit their exhaust emissions of NO_X to 3.0 g/HP-hr, emissions of CO to 5.0 g/HP-hr, and emissions of VOC to 1.0 g/HP-hr, except that these standards apply to lean burn engines between 500 and 1,350 HP manufactured after January 1, 2008. Instead of complying with limits in terms of g/HP-hr, owners and operators may limit their exhaust emissions of NO_X to 220 ppmvd at 15 percent O_2, emissions of CO to 610 ppmvd at 15 percent O_2, and emissions of VOC to 80 ppmvd at 15 percent O_2.

Stationary landfill and digester gas SI engines greater than or equal to 500 HP that are manufactured after July 1, 2010, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 5.0 g/HP-hr, and emissions of VOC to 1.0 g/HP-hr. Instead of complying with limits in terms of g/HP-hr, owners and operators may limit their exhaust emissions of NO_X to 150 ppmvd at 15 percent O_2, emissions of CO to 610 ppmvd at 15 percent O_2, and emissions of VOC to 80 ppmvd at 15 percent O_2.

Stationary SI engines that use landfill or digester gas that are less than 500 HP are given an extra 12 months to comply with the standards. The first stage of limits of 3.0, 5.0, and 1.0 g/HP-hr, for NO_X, CO, and VOC, respectively (or 220, 610, and 80 ppmvd at 15 percent O_2), applies to landfill and digester gas engines manufactured after July 1, 2008. The second stage of limits of 2.0, 5.0, and 1.0 g/HP-hr, for NO_X, CO, and VOC, respectively (or 150, 610, and 80 ppmvd at 15 percent O_2), applies to landfill and digester gas engines manufactured after January 1, 2011. The emission standards applicable to stationary SI landfill and digester gas engines are shown in Table 4 of this preamble.

Engine manufacturers may voluntarily certify their stationary SI landfill and digester gas engines to the emission standards in Table 4 of this preamble, but the certification is not required by the final rule.

f. Stationary Emergency SI Engines >19 KW (25 HP). For stationary SI engines greater than 25 HP that are emergency engines, the final rule sets a single stage of emission limits; however, EPA has determined that it is appropriate to have separate standards for stationary emergency engines above and below 130 HP.

Owners and operators who purchase stationary emergency engines greater than 25 HP and less than 130 HP that are manufactured after January 1, 2009, must limit their exhaust emissions of $HC+NO_X$ to 10.0 g/HP-hr and emissions of CO to 387 g/HP-hr. These standards are consistent with the Phase I emission standards for Class II nonroad engines in 40 CFR part 90.

Owners and operators who purchase stationary emergency engines greater than or equal to 130 HP that are manufactured after January 1, 2009, must limit their exhaust emissions of NO_X to 2.0 g/HP-hr, emissions of CO to 4.0 g/HP-hr, and emissions of VOC to 1.0 g/HP-hr. Instead of complying with limits in terms of g/HP-hr, owners and operators may limit the exhaust emissions from their emergency engines to 160 ppmvd of NO_X at 15 percent O_2, 540 ppmvd of CO at 15 percent O_2, and 86 ppmvd of VOC at 15 percent O_2.

Engine manufacturers may voluntarily certify their stationary emergency SI engines greater than 25 HP, but the certification is not required by the rule, except for manufacturers of gasoline or LPG rich burn emergency engines, who must certify their engines to the standards in 40 CFR part 90 (for engines below 130 HP) or 40 CFR part 1048 (for engines at or above 130 HP—see Table 2 of this preamble).

g. Fuel Requirements. In addition to emission standards, the final rule requires that owners and operators who use gasoline in their stationary SI engine must use gasoline that meets the requirements of 40 CFR 80.195. The requirements include a gasoline sulfur per gallon cap of 80 parts per million (ppm).

2. NESHAP

a. Engines ≤500 HP at Major Sources. Owners and operators of new and reconstructed stationary SI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions (except new or reconstructed 4-stroke lean burn (4SLB) stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at major source of HAP emissions), must meet the requirements of the final SI NSPS (40 CFR part 60, subpart JJJJ). Thus, if the owners and operators are in compliance with 40 CFR part 60, subpart JJJJ, they would also be in compliance with 40 CFR part 63, subpart ZZZZ, for engines equal to or less than 500 HP located at a major source (except for 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP located at a major source). The requirements that apply under 40 CFR part 60, subpart JJJJ, were discussed in the previous section of this preamble.

Similarly, owners and operators of new and reconstructed stationary CI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions must meet the requirements of the final CI NSPS (40 CFR part 60, subpart IIII). If the owners and operators are in compliance with 40 CFR part 60, subpart IIII, they would also be in compliance with 40 CFR part 63, subpart ZZZZ, for engines equal to or less than 500 HP located at a major source.

Owners and operators of new or reconstructed 4SLB SI stationary engines with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source are required to either reduce CO emissions by 93 percent or more, or limit the concentration of formaldehyde in the stationary engine exhaust to 14 ppmvd or less, at 15 percent O_2. These engines would also be required to meet the requirements in the final SI NSPS, but do not have to comply with the CO emission standards of the SI NSPS if in compliance with the NESHAP.

b. Engines at Area Sources. Owners and operators of new and reconstructed stationary engines located at area sources of HAP emissions must meet the requirements of the final CI NSPS (40 CFR part 60, subpart IIII) or SI NSPS (40 CFR part 60, subpart JJJJ), as appropriate. If the owners and operators are in compliance with either 40 CFR part 60, subpart IIII or JJJJ, as appropriate, they would also be in compliance with 40 CFR part 63, subpart ZZZZ, for new and reconstructed engines located at an area source.

D. What are the requirements for sources that are modified or reconstructed?

1. SI NSPS

The final standards apply to stationary SI engines subject to the SI NSPS that are modified or reconstructed after June 12, 2006. The definitions for modification and reconstruction are given in 40 CFR 60.14 and 40 CFR 60.15, respectively. A stationary engine that is overhauled as part of a maintenance program is not considered a modification if there is no increase in emissions.

Stationary SI ICE less than or equal to 19 KW (25 HP) manufactured prior to July 1, 2008, that are modified or reconstructed after June 12, 2006, are required to meet the standards that apply to engines manufactured after July 1, 2008 (January 1, 2009 for emergency engines).

Stationary SI gasoline and rich burn LPG engines between 25 HP and 500 HP manufactured prior to July 1, 2008, that are modified or reconstructed after June 12, 2006, are required to meet the standards applicable to engines manufactured after July 1, 2008 (January 1, 2009 for emergency engines).

Stationary SI natural gas and lean burn LPG engines greater than 25 HP and less than 100 HP manufactured prior to July 1, 2008, that are modified or reconstructed after June 12, 2006, are required to meet the NO_X, HC, and CO emission standards in 40 CFR 1048.101(c), as summarized in Table 3 of this preamble.

Stationary SI gasoline and rich burn LPG engines greater than or equal to 500 HP manufactured prior to July 1, 2007, that are modified or reconstructed after June 12, 2006, are required to meet the standards applicable to engines manufactured after July 1, 2007.

Stationary SI natural gas and lean burn LPG engines greater than or equal to 100 HP and less than 500 HP manufactured prior to July 1, 2008, that are modified or reconstructed after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a VOC standard of 1.0 g/HP-hr. Instead of meeting emission standards in terms of

g/HP-hr, owners and operators may meet NO_X, CO, and VOC emission standards of 250, 540, and 86 ppmvd at 15 percent O_2, respectively.

Stationary non-emergency SI natural gas and lean burn LPG engines greater than or equal to 500 HP manufactured prior to July 1, 2007, (or January 1, 2008, for lean burn natural gas engines greater than or equal to 500 HP and less than 1,350 HP) that are modified after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a VOC standard of 1.0 g/HP-hr. Again, instead of meeting emission standards in terms of g/HP-hr, owners and operators may meet NO_X, CO, and VOC emission standards of 250, 540, and 86 ppmvd at 15 percent O_2, respectively.

Stationary SI landfill and digester gas engines less than 500 HP manufactured prior to July 1, 2008, that are modified or reconstructed after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 5.0 g/HP-hr, and a VOC standard of 1.0 g/HP-hr.

Stationary SI landfill and digester gas engines greater than or equal to 500 HP manufactured prior to July 1, 2007, that are modified after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 5.0 g/HP-hr, and a VOC standard of 1.0 g/HP-hr. For all modified and reconstructed SI landfill and digester gas engines, instead of meeting emission standards in terms of g/HP-hr, owners and operators may meet NO_X, CO, and VOC emission standards of 220, 610, and 80 ppmvd at 15 percent O_2.

Stationary SI emergency engines greater than or equal to 130 HP manufactured prior to January 1, 2009, that are modified or reconstructed after June 12, 2006, are required to meet a NO_X emission standard of 3.0 g/HP-hr, a CO standard of 4.0 g/HP-hr, and a VOC standard of 1.0 g/HP-hr. Instead of meeting emission standards in terms of g/HP-hr, owners and operators may meet NO_X, CO, and VOC emission standards of 250, 540, and 86 ppmvd at 15 percent O_2. Stationary SI emergency engines between 25 HP and 130 HP manufactured prior to January 1, 2009, that are modified or reconstructed after June 12, 2006, are required to meet a $HC+NO_X$ emission standard of 10.0 g/HP-hr and a CO standard of 387 g/HP-hr.

2. NESHAP

Similar concepts as those discussed above apply to engines subject to 40 CFR part 63 regulations; however, the concept of modification is not included in 40 CFR part 63. The final standards apply to stationary engines subject to the NESHAP that commence reconstruction on or after June 12, 2006, and the reconstruction criteria are provided in 40 CFR 63.2.

E. What are the requirements for demonstrating compliance?

The following sections describe the requirements for demonstrating compliance under the stationary SI NSPS and NESHAP.

1. SI NSPS

Owners and operators subject to the emission standards specified in the final rule who use stationary SI engines with a maximum engine power of less than or equal to 19 KW (25 HP) or who use stationary SI engines with a maximum engine power greater than 19 KW (25 HP) and use gasoline or are rich burn engines greater than 19 KW (25 HP) using LPG must demonstrate compliance by using an engine certified to the emission standards specified in 40 CFR part 90 or 1048, as applicable.

Owners and operators subject to the final rule who use stationary SI engines with a maximum engine power greater than 19 KW (25 HP) that use fuels other than gasoline and that are not rich burn engines greater than 19 KW (25 HP) that use LPG, must demonstrate compliance by either using an engine certified to the emission standards specified in Tables 3 or 4 of this preamble, as applicable, or by conducting an initial performance test (and potentially subsequent performance testing depending on the engine size) to demonstrate compliance with the emission standards.

Owners and operators of all stationary engines subject to the requirements of the SI NSPS must keep records of maintenance conducted on the engine. Owners and operators of stationary non-certified engines, which include certified engines operating in a non-certified manner, must keep a maintenance plan. Owners and operators of certified engines may demonstrate compliance by operating and maintaining their stationary engine and aftertreatment control device (if any) according to the manufacturer's emission-related written instructions and do not have to conduct any performance testing.

Owners and operators of certified engines who do not follow the manufacturer's emission-related operation and maintenance procedures will be considered non-certified engines and will be subject to performance testing. Certified engines operating in a non-certified manner that are less than 100 HP do not have to conduct performance testing to demonstrate compliance. Certified engines operating in a non-certified manner that are greater than or equal to 100 HP and less than or equal to 500 HP, however, must conduct an initial performance test within the first year of engine operation to demonstrate compliance with the emission standards. Finally, certified engines operating in a non-certified manner that are greater than 500 HP must conduct a performance test within the first year of operation and every 8,760 hours of operation or 3 years thereafter to demonstrate compliance. Owners and operators of engines that have never been certified that are greater than 25 HP and less than or equal to 500 HP must conduct an initial performance test to demonstrate compliance with the emission standards. As mentioned, all engines are subject to recordkeeping of maintenance, which includes these engines. Owners and operators of engines that have never been certified that are greater than 500 HP must conduct an initial performance test to demonstrate compliance and must test every 8,760 hours of operation or 3 years after that.

Manufacturers of stationary SI engines required to certify their engines must demonstrate compliance by certifying that their stationary SI engines meet the emission standards, as specified in 40 CFR part 60, subpart JJJJ, as applicable, using the certification procedures in subpart B of 40 CFR part 90 or subpart C of 40 CFR part 1048, as applicable, and must test their engines as specified in those parts. Manufacturers who conduct voluntary certification must follow the same test procedures that apply to large SI nonroad engines under 40 CFR part 1048, but must use the D–1 cycle in International Organization for Standardization (ISO) 8178–4: 1996(E) for stationary engines or the test cycle requirements specified in Table 5 to 40 CFR 1048.505, except that Table 5 to 40 CFR 1048.505 applies to high load engines only.

Manufacturers who opt to voluntarily certify their stationary SI engines to the emission standards specified in this subpart must certify their engines using fuel that meets the definition of pipeline-quality natural gas, which according to the definition must be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.

If the manufacturer chooses to certify its stationary SI engines to another fuel, the manufacturer must specify the properties of that fuel and what adjustments the owner or operator must make to the engine during installation in the field in order to meet the

emission standards. The manufacturer must also perform certification testing on the engine on that fuel, as it would if it was certifying to pipeline-quality natural gas, in order to assure compliance with the emission standards. Manufacturers who conduct voluntary certification of stationary SI ICE must also provide instructions to the owner and operator for configuring the stationary engine to meet the emission standards on fuels that meet the pipeline-quality natural gas specifications and fuels that do not meet the pipeline-quality natural gas specifications. The manufacturer must provide information to the owner and operator of the certified stationary SI engine regarding the particular fuels to which the engine is certified, and instructions regarding configuring the engine in a manner most appropriate for reducing pollutant emissions for engines operating on such fuels.

EPA allows owners and operators of natural gas engines to use propane as back up fuel for emergency purposes for no more than 100 hours per year. If propane is used for more than 100 hours per year in an engine that is not certified to the emission standards when using propane, the owners and operators are required to conduct a performance test to demonstrate compliance with the emission standards.

Owners and operators that operate engines that have been certified by the engine manufacturer are not required to perform any performance testing unless the engine is operated outside of the fuel properties or emission-related operation and maintenance procedures specified by the manufacturer. If the owner or operator uses fuels that are outside of the fuel specifications or does not follow the emission-related adjustments or maintenance requirements specified by the manufacturer, the engine is no longer considered a certified engine and the owner or operator must test the engine to demonstrate compliance.

Regarding stationary rich burn engines operating with three-way catalysts or non-selective catalytic reduction, EPA expects that air-to-fuel ratio controllers will be used in conjunction with the control device. The AFR controller must be operated in an appropriate manner to ensure proper operation of the engine and control device in order to minimize emissions.

2. NESHAP

For most engines (i.e. except those discussed in the following paragraph), owners and operators of new and reconstructed stationary SI RICE equal to or less than 500 HP located at a major source of HAP emissions and stationary RICE located at an area source, will be able to demonstrate compliance with the NESHAP if they meet the requirements of the final SI NSPS (40 CFR part 60, subpart JJJJ). Similarly, owners and operators of new and reconstructed stationary CI engines with a site rating of equal to or less than 500 HP located at a major source of HAP emissions, will be able to demonstrate compliance with the NESHAP if they meet the requirements of the final CI NSPS (40 CFR part 60, subpart IIII). If the owners and operators are in compliance with 40 CFR part 60, subpart JJJJ or IIII, as applicable, they will also be in compliance with 40 CFR part 63, subpart ZZZZ, for engines equal to or less than 500 HP located at a major source. The compliance requirements that apply under 40 CFR part 60, subpart JJJJ, were discussed in the previous section. For the majority of stationary CI engines, all that is required under 40 CFR part 60, subpart IIII, is that the owner or operator purchase a certified stationary CI engine and operate it properly and according to the manufacturer's specifications.

Owners and operators of new or reconstructed 4SLB stationary RICE greater than or equal to 250 HP and less than or equal to 500 brake HP located at major source are required to follow the compliance requirements specified in 40 CFR part 63, subpart ZZZZ, consistent with the compliance requirements for 4SLB stationary RICE greater than 500 HP located at a major source. Those compliance requirements include demonstrating compliance by conducting an initial performance test. These engines must also conduct a subsequent performance test semiannually if they are complying with the requirement to reduce CO emissions and not using a continuous emissions monitoring system, and if they are complying with the requirement to limit the concentration of formaldehyde in the stationary engine exhaust. Under the NESHAP, these engines must either reduce CO emissions or limit the concentration of formaldehyde. In addition, these engines would be required to meet the requirements in the final SI NSPS. However, these engines do not have to comply with the CO emission standards of the SI NSPS if in compliance with the NESHAP.

F. What are the reporting and recordkeeping requirements?

The following sections describe the reporting and recordkeeping requirements that are required under the SI NSPS and the NESHAP.

1. SI NSPS

Owners and operators of all engines (certified and non-certified) are required to maintain records of proper maintenance and non-certified engines must keep a maintenance plan. An initial notification is required for owners and operators of engines greater than 500 HP that are non-certified. Also, owners and operators who conduct performance testing are required to report the test results within 60 days of each performance test.

Owners and operators of emergency engines are required to keep records of their hours of operation. For emergency engines greater than or equal to 130 HP, this requirement starts for engines manufactured after the point when more stringent emission standards take effect for non-emergency engines, either in July 2010 or January 2011, depending on the power rating of the engine. For emergency engines below 130 HP, the requirement to keep records of the hours of operation begins for all engines manufactured after January 1, 2009. Owners and operators of emergency engines must install a non-resettable hour meter on their engines to record the necessary information. Emergency stationary engines may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by the Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine. Maintenance checks and readiness testing of such units is limited to 100 hours per year. Owners and operators can petition the Administrator for additional hours, beyond the allowed 100 hours per year, if such additional hours should prove to be necessary for maintenance and testing reasons. A petition is not required if the hours beyond 100 hours per year for maintenance and testing purposes are mandated by regulation such as State or local requirements. There is no time limit on the use of emergency stationary engines in emergency situations, however, the owner or operator is required to record the length of operation and the reason the engine was in operation during that time. Records must be maintained documenting why the engine was operating to ensure the 100 hours per year limit for maintenance and testing operation is not exceeded. In addition, owners and operators are allowed to operate their emergency engines for non-emergency purposes for 50 hours per year, but those 50 hours are counted towards the total 100 hours provided for operation other than for true emergencies and owners and operators

may not engage in income-generating activities during those 50 hours. The 50 hours per year for non-emergency purposes cannot be used to generate income for a facility, for example, to supply power to an electric grid or otherwise supply power as part of a financial arrangement with another entity.

2. NESHAP

In general, owners and operators of new and reconstructed stationary RICE equal to or less than 500 HP located at a major source of HAP emissions and stationary RICE located at an area source of HAP emissions, will be able to demonstrate compliance with the NESHAP if they meet the requirements of the final SI NSPS (40 CFR part 60, subpart JJJJ) or the final CI NSPS (40 CFR part 60, subpart IIII), as appropriate, which includes reporting and recordkeeping requirements. The reporting and recordkeeping requirements that would apply to stationary RICE were discussed in the previous section of this preamble and in the preamble to the final CI NSPS (71 FR 39154). No additional reporting and recordkeeping requirements are required under the 40 CFR part 63.

Owners and operators of new or reconstructed 4SLB stationary RICE greater than or equal to 250 and less than or equal to 500 brake HP located at major source are required to meet the reporting and recordkeeping requirements specified in 40 CFR part 63, subpart ZZZZ, consistent with the compliance requirements for 4SLB stationary RICE greater than 500 HP located at a major source. The recordkeeping and reporting requirements that apply to these engines were discussed in the preamble to the final RICE NESHAP (69 FR 33473).

IV. Summary of Significant Changes Since Proposal

Most of the rationale used to develop the proposed rule remains the same for the final rule. Therefore, the rationale previously provided in the preamble to the proposed rule is not repeated in the final rule, and the rationale sections of the rule, as proposed, should be referred to. Major changes that have been made to the rule since proposal are discussed in this section with rationale following in the Summary of Responses to Major Comments section.

A. Compliance Dates

In the final rule, EPA has extended the compliance dates for all stationary SI ICE that had a compliance date of January 1, 2008, in the proposal, by 6 months. These engines have a compliance date of July 1, 2008. In addition, stationary SI lean burn engines between 500 and 1,350 HP that had a compliance date of July 1, 2007, in the proposed rule, have also been provided with an additional 6 months, *i.e.*, these engines have a compliance date of January 1, 2008.

B. Distinguishing Sources Based on Size

In the final rule, based on the comments received, EPA is adopting a size threshold of 100 HP for non-emergency stationary SI engines to meet nonroad emission standards. That is, non-emergency stationary SI engines less than 100 HP are subject to the nonroad emission standards in 40 CFR part 90 (if less than or equal to 25 HP) or 40 CFR part 1048 (if greater than 25 HP). Certification to 40 CFR part 1048 is voluntary for all stationary SI engines except gasoline and rich burn LPG engines. Stationary SI engines greater than or equal to 100 HP (except gasoline and rich burn LPG) are subject to the emission standards specified in part 60 subpart JJJJ, as shown in Table 4 of this preamble. Stationary SI lean burn LPG engines have the option of meeting 40 CFR part 1048 instead of the emission standards specified in this subpart. EPA has also provided some flexibility on the initial years of the program for manufacturers to certify to standards in either 40 CFR part 1048 or as shown in Table 4 of this preamble.

C. Hydrocarbon Limit

EPA proposed emission limits for NO_X, CO, and NMHC. In the final rule, EPA is adopting a VOC limit in place of the proposed NMHC limit. The stage 1 and stage 2 emission standards remain as proposed at 1.0 g/HP-hr and 0.7 g/HP-hr, but the standards are for VOC. EPA has defined VOC according to 40 CFR part 51, and has noted that emissions of formaldehyde should not be counted for testing purposes. That is, the final stage 1 and stage 2 emission limits for VOC effectively do not include ethane, methane, and formaldehyde. Formaldehyde was excluded because it cannot be measured by the testing method used to determine the standard; however, EPA expects formaldehyde emissions to be reduced using the emission controls expected for other hydrocarbons and CO. Therefore, we expect formaldehyde emissions to be reduced comparably to VOCs and CO, which are used as a surrogate for formaldehyde for the purposes of section 112.

D. Alternative Limits in Concentration Units

EPA proposed NO_X, CO, and NMHC emission limits in terms of exhaust-based units. Based on various comments and concerns with finalizing emission standards in terms of these units, EPA finds it appropriate to include alternative concentration-based emission limits in the final rule. The concentration-based emission limits, provided in terms of ppmvd at 15 percent O_2, are equivalent to the g/HP-hr emission limits. The owners and operators may choose if they wish to comply with the g/HP-hr standards or the ppmvd standards.

E. Emergency Engine Standards

For stationary emergency engines, EPA proposed that these engines meet emissions standards of 2.0, 4.0, and 1.0 g/HP-hr for NO_X, CO, and NMHC, respectively, for all emergency engines. In the final rule, stationary emergency engines between 25 and 130 HP are subject to emission standards of reduced stringency of 10 g/HP-hr for NO_X+HC and 387 g/HP-hr for CO. Stationary emergency engines greater than or equal to 130 HP are subject to the emission standards as proposed. Stationary emergency engines less than or equal to 25 HP are subject to the emission standards in 40 CFR part 90.

F. Emergency Engine Definition

In the final rule, EPA has retained the proposed definition of stationary emergency engine, except that stationary engines greater than 500 HP located at major sources that were built prior to the proposal date of this rule (June 12, 2006), are subject to the emergency engine definition as finalized in 40 CFR part 60, subpart ZZZZ, on June 15, 2004. All stationary engines built after the date of proposal of this rule are subject to the new definition of stationary emergency engine and are limited to 100 hours per year of maintenance and readiness testing. There is no limit on the time allowed for emergency operation. Stationary emergency engines may be operated for non-emergency purposes for up to 50 hours per year, but those 50 hours are counted towards the 100 hours per year allowed for maintenance and readiness testing. The 50 hours per year for non-emergency purposes cannot be used for peak shaving or to generate income for a facility to supply power to an electric grid or otherwise supply power as part of a financial arrangement with another entity.

G. Manufacturer O&M Requirements

The proposed rule required that owners and operators operate and maintain their stationary SI internal combustion engine and control device according to the manufacturer's written instructions or procedures developed by the owner or operator that are approved by the engine manufacturer. The final rule does not require that owners and operators follow the manufacturer's instructions. Owners and operators who operate and maintain their certified stationary ICE and control device according to the manufacturer's emission-related guidelines are required to keeping records of conducted maintenance and do not have any performance testing requirements under the final rule.

Owners and operators who operate their certified stationary ICE and control device in a manner that is inconsistent with the manufacturer's emission-related guidelines are considered non-certified engines and must keep a maintenance plan, records of conducted maintenance, and must conduct performance testing under the final rule if the engine is greater than or equal to 100 HP. Owners and operators of stationary ICE that have never been certified must keep a maintenance plan, records of conducted maintenance, and must conduct performance testing for all size engines.

H. Streamlined Compliance Requirements

In the final NESHAP, EPA has included a provision that states that owners and operators of new and reconstructed stationary engines less than 500 HP located at major sources and new and reconstructed stationary engines located at area sources (except stationary 4SLB engines between 250 and 500 HP) will be in compliance with the NESHAP requirements if they meet the requirements of the SI NSPS (40 CFR part 60, subpart JJJJ) or the CI NSPS (40 CFR part 60, subpart IIII), as applicable.

V. Summary of Responses to Major Comments

A more detailed summary of comments and EPA's responses can be found in the Summary of Public Comments document, which is available from the rulemaking docket (see **ADDRESSES** section).

A. Compliance Dates

Comment: Several commenters stated that more time is needed to comply with the final rule for owners, operators, and manufacturers. Two commenters said that because there are no existing Federal requirements affecting the vast majority of stationary SI engines and due to the complexity of the regulation, more time is needed to develop the testing and compliance systems for the proposed requirements. Also, two commenters added, that the first compliance date of July 1, 2007, actually occurs prior to the anticipated publication date of the final rule. One commenter expressed that such a regulatory mandate is impractical and unworkable considering the uncertainty of the final regulatory requirements. One commenter believes that an implementation date of January 1, 2008, is unreasonable. This commenter believes that the engine control technology requires significant changes to meet the proposed standards and recommended the implementation date be January 1, 2009, to allow proper development and application time. This commenter explained that a minimum of 12 months is required for manufacturer development and testing such as catalyst configuration changes and component specification for additional engines and fuel types not certified to 40 CFR part 1048. In addition, any deterioration factor service accumulation time required will take 6 months to complete, according to one commenter. Once the development of the systems are complete, this commenter said that it will take manufacturers a minimum of 6 months to apply, or "roll out," this technology to the equipment manufacturer base. The commenter bases this comment on the experience in implementing the large SI nonroad engine regulations (40 CFR part 1048), which began implementation in January of 2004. One commenter requested that the initial compliance dates be delayed 9 months from the proposed compliance dates. Another commenter recommended that the initial compliance dates be delayed until at least 6 to 9 months following publication of the final rule in the **Federal Register**. Sufficient lead time is required not only for manufacturers, but also to allow the many thousands of owners/operators affected by the regulation to be notified and educated regarding the rule's requirements, according to a commenter. Finally, commenter 154 said that subsequent compliance dates also should be delayed by the same amount to assure that the requisite leadtime and stability periods are preserved for manufacturers.

Response: Based on comments received on the proposed compliance dates as summarized in the above comment and on various discussions post-proposal with engine manufacturers, EPA agrees that it is appropriate to extend the proposed compliance date of January 1, 2008, that affected a variety of different engines, many of which are subject to mandatory certification. In the final rule, EPA has provided an additional 6 months for engines that had a compliance date of January 1, 2008 in the proposal. The compliance date in the final rule is July 1, 2008, for engines less than 500 HP. EPA believes that July 1, 2008, will accommodate engine manufacturers and that 6 months will be sufficient lead-time for both owners/operators and manufacturers. In particular, EPA believes July 1, 2008, will provide manufacturers enough time to prepare and complete the certification of new engines. Although the technology already exists for reducing emissions to the level required in the rule, an appropriate amount of time should be provided in order to make the necessary arrangements for engine manufacturers to obtain certification of their products and otherwise assist affected parties prepare for the new standards. EPA's approach is similar to the approach taken in the CI NSPS where sources were required to comply before the final rule was issued, but some time was provided prior to the requirement for mandatory certification. Sections 111 and 112 of the CAA define new engines to be all engines for which construction is commenced following the date of the proposal and it is routine for sources that commenced construction prior to the final rule to be subject to standards under these provisions. Also note that the certification program for large SI engines is voluntary so manufacturers are not being forced to certify engines by those dates. Only engines that are 25 HP or smaller or are gasoline or rich burn LPG-fueled, which are directly related to nonroad engines that are already subject to certification requirements and are also generally smaller than 500 HP, must certify. This is one reason why EPA does not believe that it is necessary to include additional lead-time for large engines (i.e., those above 500 HP) and the compliance date remains as proposed for these engines, i.e., July 1, 2007, with the exception that EPA has granted a delay for certain engines until January 1, 2008, which EPA discusses below.

Regarding the comparison with the large SI nonroad engine rule, EPA notes that the proposal for that rule was published in October 2001, over 2 years from initiation of a mandatory certification program. EPA believes that the compliance dates provide adequate time for manufacturers of engines and

owners/operators to make the necessary preparations and adjustments to develop engines that comply with the emission standards. Additional lead-time has been provided for certain engines, as discussed above, as well as emergency engines. EPA has also provided additional lead-time in order to meet the Stage 2 emission standards. With that said, EPA notes that in the final rule that it has provided lean burn engines in the size range of 500 HP or greater to less than 1,350 HP additional lead-time. Engine manufacturers have indicated that it would be problematic to meet the proposed compliance date. EPA believes that providing engine manufacturers with a later compliance date will make it possible to complete necessary development and implementation work necessary in order to prepare these engines for compliance. More information on this topic can be found in the docket to this rulemaking.

B. Final Hydrocarbon Emission Limits

Comment: Several commenters expressed some concerns with the proposed non-methane hydrocarbons (NMHC) emission standards. One commenter initially recommended a 1.0 g/HP-hr NMHC emissions limit as being technically achievable for most engine applications. However, several engine manufacturers have clarified that the information submitted to EPA regarding achievable NMHC numbers did not include aldehydes and other oxygenated hydrocarbon compounds in the totals. Three commenters recommended that NMHC limitations exclude aldehydes and other oxygenated HC. One commenter said that if the standard includes aldehydes, then the emission standard of 1.0 g/HP-hr is not achievable for most engines, since the initial recommendation the commenter submitted was based on excluding aldehydes from the NMHC totals.

Three commenters requested that ethane be excluded from the calculation of NMHC. They argue that ethane is not a VOC under 40 CFR 51.100(s)(1) and they say that ethane does not contribute to ozone formation. The commenters also noted that natural gases with a relative high content of ethane are primarily present in the western part of the U.S. and commenter 139 provides information indicating that engines are not able to meet the NMHC standards when using natural gas that is high in ethane. Two commenters recommended that EPA examine alternative standards, indices, and testing methods for hydrocarbon emissions. Three commenters said that the parameter to be used for natural gas fueled engines should exclude methane and ethane and have suitable measurement techniques that are applicable in both factory and field tests. One commenter said, if EPA decides to retain NMHC as the appropriate parameter, then at a minimum, the level of the proposed standards needs to be raised or clarification made that the measured HC do not include aldehydes.

Three commenters recommended that if the NSPS includes an emission limit for HC species, the limit should be for VOC (or non-methane non-ethane (NMNEHC)) and not NMHC. Three commenters stated that VOC, not NMHC, are the National Ambient Air Quality Standards (NAAQS) pollutant regulated as an ozone precursor for stationary sources. The commenters believe that most available data are reported as VOC rather than NMHC, and owners/operators are very limited in their ability to assess whether the data indicate that the proposed NMHC standard is achievable for field performance tests. The commenters also believe that before regulating NMHC for stationary engines, EPA should complete an analysis to identify the potential benefit and cost of regulating ethane or using NMHC as a surrogate for VOC for gas-fired engines, and ensure that emissions data from field tests are available to substantiate the basis for the standard.

Several commenters also expressed concern over the proposed test methods for measuring NMHC. Commenters believe that the emissions test methods should be consistent with the included hydrocarbon species, and EPA Method 25 of 40 CFR part 60, Appendix A, should not be used for determination of NMHC or VOC. The commenters support their claim by saying that NMHC emissions are defined as THC emissions less methane emissions. However, this definition needs further clarification to exclude formaldehyde and oxygenates, because the emissions information provided by manufacturers that serves as the basis of the standard does NOT include aldehydes or other oxygenated HC. Non-methane hydrocarbon measurements are typically conducted using a flame ionization detector (FID) to measure THC and a FID or gas chromatography method to measure methane. EPA Method 25A of 40 CFR part 60, Appendix A, uses a continuous FID analyzer to measure exhaust gas THC. Method 18 separates CH_4 (methane) from other exhaust gas species with a gas chromatograph, and quantifies the methane with an appropriate detector. Method 18 of 40 CFR part 60, Appendix A, allows exhaust gas to be collected in a bag or continuously sampled. A flame ionization detector poorly quantifies oxygenated hydrocarbon species. Formaldehyde, and to a lesser extent acetaldehyde, methanol, and acrolein, have been measured in natural gas-fired engine exhaust. The commenters agree with EPA's conclusion that NMHC test methods are simpler and less costly to implement than formaldehyde test methods and that NMHC testing will reduce the testing burden while maintaining emissions compliance assurance. Recognizing that measuring NMHC with a FID does not directly measure formaldehyde and that the emission limits are based on manufacturer data that do not include formaldehyde and other oxygenates, it is important to understand that NMHC is used as a formaldehyde surrogate, but NMHC, the regulated pollutant, does NOT include formaldehyde under this standard. Thus, it is only appropriate to allow test methods that do NOT measure formaldehyde or other oxygenated hydrocarbons; therefore, EPA Method 25 should be excluded from the final rule.

Response: We agree that the composition of certain western gas (i.e. the high concentration of ethane) may make compliance with an NMHC standard more difficult in some cases. As the proposed NMHC standards were intended to ensure compliance with VOC and HAP reduction requirements, and pursuant to 51.100(s) ethane is not a VOC, (nor is it a HAP under CAA section 112(c)) we agree that expressing the standard in terms of VOC, rather than NMHC is appropriate in this case. EPA's final hydrocarbon standards for gaseous fueled and lean burn LPG engines above 100 HP are presented as VOC standards, instead of NMHC standards. For natural gas engines below 100 HP meeting the NMHC standards in 40 CFR part 1048, the regulations do not require measurement of ethane for testing in the field. EPA agrees that EPA Method 25A does not measure formaldehyde and that all data gathered to support the emission limit using this method would not have included formaldehyde. However, EPA Method 25A would measure all other aldehydes and other oxygenated organic compounds although the measured results would be less than the actual concentrations in the gas stream. Even though EPA Method 25A measurements for the other aldehydes and oxygenated organic compounds would have been less than their true values, EPA believes that in all cases the measured values would represent substantially greater than 50 percent of the true value for these compounds. Because these

compounds are accounted for to a significant extent in the database supporting the emission limit it would not be appropriate to exclude them from the definition of VOC. If EPA Method 25A is used to determine compliance with the emission limit, the reduced response of the aldehydes and other oxygenated organics will automatically be taken into account, and the compliance demonstration will be consistent with the procedures used to establish the emission limit. However, if one of the alternative methods, such as EPA Method 18 or EPA Method 320 of 40 CFR part 60, Appendix A, is used, these methods will measure 100 percent of the aldehydes and other oxygenated organic compounds. The results from these methods should be adjusted to account for the bias in EPA Method 25A by multiplying the measured values of the aldehydes and other oxygenated organics by the EPA Method 25A response factor for each measured compound. In addition, when adding the masses of all of the measured VOC from either of these two methods, the actual mass of the aldehydes and oxygenated organics should be reported as the equivalent mass on a propane basis. This will ensure that the results from these two methods are reported on a basis that is consistent with the procedures used to establish the emission limit.

EPA agrees that it is not appropriate to allow EPA Method 25 in the final rule, and EPA has made this clear in the regulatory text. Since the final emission standards are based on data that does not include formaldehyde, it would not be appropriate to include Method 25 since that method may capture that compound.

Further, the emission standards for VOC are based on data that does not include formaldehyde and EPA agrees that it is appropriate to specify that formaldehyde is not included in the final VOC emission standard. EPA has made this clarification in the testing requirements for VOC. In the final rule, EPA has replaced the proposed NMHC limits in g/HP-hr with VOC limits in the same units. In addition, EPA has specified VOC limits in terms of concentration (ppmvd at 15 percent O_2). EPA believes, based on evidence, that a final standard of 1.0 g/HP-hr and 0.7 g/HP-hr for VOC will be achievable for most engines. (Certain engines, like engines burning landfill gases, are subject to less stringent final standards.) The proposed NMHC emission limits are essentially the same as the final VOC emission limits based on how VOC is defined in the final rule. EPA has defined VOC according to the definition provided in 40 CFR part 51, and has noted that formaldehyde is, as discussed, excluded from calculation of VOC emissions. The magnitude of the final VOC limits is the same as the proposed NMHC limits and remain unchanged because the test methods used to capture pollutants are essentially the same.

EPA recognizes that there may be variability in the ethane content in natural gas and believes it would be appropriate to exclude ethane from the final standard. Since EPA has replaced the proposed NMHC standards with VOC standards in the final rule, and since VOC by definition excludes ethane, this comment is resolved.

As discussed, EPA is finalizing emission standards in terms of VOC not as NMHC, as proposed. Based on review of the emissions information used to set the proposed standards for NMHC, comments received on the proposal from industry, and meetings with various stakeholders post-proposal, EPA believes it is more appropriate finalize a VOC standard than an NMHC standard as a measure for HC compounds. Many State regulations affecting stationary sources use VOC and VOC is a more familiar term than NMHC to the regulated community. Emissions of NMHC might be difficult to measure in the field and is a pollutant that has typically been regulated through the manufacturer. Also, because of the variability of ethane in natural gas fuel, VOC, since it excludes ethane, it is more appropriate than NMHC.

C. Emergency Engine Standards

Comment: Several commenters were of the opinion that stationary emergency engines should be exempt from the rule; at a minimum they should be exempt from the emission standards. Two commenters were of the opinion that a size-based exemption threshold or alternative emission limits should be defined for emergency engines. One commenter believes that the proposed NSPS notifications and reporting for small emergency engines will be a cumbersome activity with little environmental benefit. The commenter noted that in most cases emergency engines operated less than 500 hours are not permitted or are considered insignificant due to the limited potential to emit emissions. The commenter requested that EPA consider exempting all emergency engines less than 500 HP from the proposed NSPS and NESHAP regulations. One commenter added that there is little data that show that by regulating these small emergency engines there will be significant environmental improvement. This commenter was of the opinion that as long as hour records are kept to show the engines are being operated in the manner addressed in the EPA white paper mentioned above these engines should be considered insignificant emitters. One commenter requested that EPA exempt stationary emergency engines from the proposed requirements, other than monitoring and recording annual operating hours by owners/operators to demonstrate the engines meet the 100-hour annual operating limitation.

One commenter recommended that emergency engines be exempted from the NSPS and NESHAP. The commenter said that emergency SI engines provide essential and needed services to owners/operators when the normal supply of electricity is disrupted and often serve life-critical functions in times of emergency. The proper operation and function of emergency engines is an essential service, according to the commenter. In addition, because emergency engines operate only during times of emergencies and are limited in hours of operation for maintenance or testing operation, emergency SI engines add minimal emissions to the inventory of criteria or HAP emissions, the commenter added. Commenter 154 believes that there will be negligible emission reductions or environmental benefits from fully applying the requirements of the proposed rule to emergency SI engines. In addition, the commenter said that including emergency engines within the regulations adds a significantly large number of owners/operators to the affected regulatory community, and thus significantly increases the reporting, recordkeeping, and compliance costs of the proposed regulation. Since emissions from emergency SI engines are small and the cost of regulatory compliance and reporting are large, the imposition of NSPS and NESHAP controls on emergency SI engines is not cost-effective, according to the commenter.

Two commenters believe that a 400 HP exemption threshold or alternative emission limits should be defined for emergency engines. The commenters said that 4SLB engines are not available below 400 HP, a size range that comprises the majority of emergency units in the oil and gas industry. The proposed rules would require non-selective catalytic reduction (NSCR) to be applied to these small engines; however NSCR application to an emergency engine has inherent complications, costs, and reliability issues, according to the commenters.

The proposed rule requires controls for emergency engines, whereas the existing RICE MACT concluded controls for emergency units were not necessary and the commenters believe that the proposed rule is therefore more stringent than the existing RICE MACT.

Some commenters also requested that EPA provide an exemption for reconstructed or modified rich burn emergency engines, which would also require post-combustion control to meet the standards.

Two commenters said that if a size-based exemption is not included in the rule, separate subcategories will be needed for emergency engines based on size with emission limits for smaller units commensurate with an uncontrolled rich burn engine, as well as an exemption for existing rich burn emergency engines that are reconstructed or modified.

Response: EPA disagrees that stationary emergency engines should be completely exempted from the rule and also does not agree that emergency engines should be exempt from emission standards. Emergency engines are part of the source category and stationary internal combustion engines and they represent a significant portion of the engines being regulated under these combined rules, and their aggregate emissions are not insignificant. EPA believes that their emissions can be regulated in a manner that is cost-effective and not disruptive. Moreover, given that EPA has already promulgated standards for stationary CI emergency engines, failure to regulate SI emergency engines may create a loophole in regulation. However, as discussed below, EPA believes that a distinction in emission standards based on size is appropriate to include for stationary emergency engines to account for what types of engines and emission controls are available. In addition, EPA agrees that alternative emission limits should be finalized for emergency engines, consistent with the proposal that recognizes a need for different emission standards for emergency engines. The final standards do not require a second stage of more stringent standards for emergency engines. For emergency engines equal to or greater than 130 HP, the standards remain as proposed at 2.0, 4.0, and 1.0 g/HP-hr for NO_X, CO and VOC, respectively. As discussed elsewhere in this document, EPA is also including the option for owners and operators to meet these emission standards in terms of concentration. However, for emergency engines below 130 HP, EPA has found it appropriate to adopt less stringent emission standards in the final rule. Based on information received post-proposal, EPA has learned that there are lean burn engines currently in the market down to 130 HP, and EPA, therefore, disagrees with the commenters who requested a 400 HP exemption threshold or alternative emission limit for emergency engines claiming that 4SLB engines are not available below 400 HP. Information on these engines can be found in the docket. The final emission standards for emergency engines below 130 HP are commensurate with the emission standards that are achievable for rich burn engines without aftertreatment and represent the maximum level of control that is attainable for small emergency engines without using aftertreatment. EPA agrees that requiring NSCR for these engines raises complications and reliability issues that are inappropriate for this subcategory. The final rule requires emergency engines greater than 25 HP and below 130 HP to meet a NO_X+HC standard of 10.0 g/hp-hr and a CO standard of 387 g/HP-hr. These emission standards are consistent with the Phase II standards that apply to Class II nonroad engines.

EPA does not believe that the recordkeeping requirements for emergency engines will be significantly burdensome. Emergency engines have to maintain records hours of operation (of emergency and non-emergency use) to ensure they are not operated beyond the 100-hour limit of the rule. Small emergency engines, i.e., those less than 130 HP will be required to begin recordkeeping immediately. However, since there is no difference between the emission standards for emergency and non-emergency engines above 130 HP until the stage 2 emission standards become effective for non-emergency engines, these larger emergency engines do not have to begin recording hours of operation and keep records of total hours of operation until July 1, 2010 or January 1, 2011, depending on whether the emergency engine is greater than or equal to 500 HP or below 500 HP, respectively.

EPA has made simplifications in the final rule that would affect emergency engine compliance requirements. In the final NESHAP, EPA has included a provision that allows emergency engines subject to the NESHAP that are new or reconstructed and equal to or less than 500 brake HP located at a major source of HAP emissions or located at an area source of HAP emissions to meet the requirements of the NESHAP by demonstrating compliance with the SI NSPS. EPA believes that this provision greatly reduces the compliance burden for owners and operators of emergency engines and overall simplifies the compliance process. Further, under the final SI NSPS, engines less than 100 HP that are certified or that were certified, but are operated in a non-certified manner will not be subject to any performance testing. This would include emergency engines.

EPA recognizes that this final rule is more stringent than the existing RICE NESHAP covering stationary engines greater than 500 HP at major sources, but EPA sees nothing improper about adopting more stringent standards affecting emergency engines under this rule. EPA often promulgates more stringent requirements in rules subsequent to initial rules regulating a source category. Emergency engines covered by the previous NESHAP are not subject to this rule. Only new, modified or reconstructed engines installed after the publication date of the notice of proposed rulemaking for this rule are subject to the more stringent requirements, except that EPA has added explicit limitations on use of emergency engines for peak shaving and supplying power to an electric grid or that supply power as part of a financial arrangement with another entity.

Regarding the request for an exemption for modified and reconstructed rich burn emergency engines, EPA disagrees that an exemption should be provided. The overall goal of the statute for modified and reconstructed engines is that older engines that are being modified or reconstructed should be subject to relatively the same standards as new engines. This reduces the incentive for owners and operators to continue to use older dirtier engines for very long periods beyond their normal life. It is not impossible to apply add-on controls to emergency engines.

D. Emergency Engine Definition

Comment: One commenter stated that the proposal sets separate standards for new emergency engines, but fails to impose enforceable limits so that these engines will be used only in clearly defined emergencies. The commenter strongly supports EPA's specification of emissions standards for emergency engines and to require that emergency engines be equipped with non-resettable meters. In addition to these requirements, the commenter said that EPA must require that emergency engines that do not meet otherwise applicable emissions limits be labeled as such. Additionally the commenter said that EPA must tighten the definition of a stationary emergency engine. According to the commenter, by

allowing emergency engines to run for an unlimited number of hours during emergency situations, but failing to provide a clear definition of what constitutes an emergency situation or emergency operation, the proposed rule leaves a highly problematic loophole. The commenter further noted that since the requirements for emergency engines are not as stringent as those for non-emergency engines, there could be a positive economic incentive for consumers to purchase an emergency engine even if that is not the engine's intended use. To close this loophole and effectuate the rule's intent, the commenter said that EPA must provide an unequivocal definition of what constitutes an emergency situation and emergency operation. The commenter advocated that a clear and stringent definition is needed to prevent operators of emergency engines from running these engines for an unlimited number of hours without triggering the more stringent Phase 2 controls required of non-emergency engines.

EPA's proposed definition does preclude one specific activity from being classified as an emergency situations (i.e., peak shaving), but it is otherwise far too general. According to the commenter, by including only examples of what constitutes an emergency engine, EPA is leaving the definition open to too much interpretation. The commenter recommended that at the least, the definition of an emergency engine should replicate the language used for stationary CI engines in stating that "Stationary (CI) ICE used to supply power to an electric grid or that supply power as part of a financial agreement with another entity are not considered to be emergency engines."

The commenter further suggested that the following elements be incorporated into the definition of an emergency stationary internal combustion engine:

- The definition should require that the situation be truly unforeseeable, beyond the control of the owner or operator, and not part of any contractual obligation. In particular, the definition should exclude operation for purposes of supplying power for distribution to the electric grid and operation for training purposes.
- The definition should exclude equipment failure or other failure to comply with any environmental law caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error. This will ensure the proper incentives are in place for care and maintenance of non-backup engines.

The commenter also said that if EPA finalizes its intent to allow natural gas-fired stationary SI engines to operate on propane fuel for up to 100 hours per year for emergency operations, a comprehensive analysis should be undertaken to evaluate the full emissions implications of what appears to be a somewhat arbitrary relaxation of the proposed standards.

Response: EPA agrees that requiring emission standards for stationary emergency engines and requiring that emergency engines be equipped with non-resettable hour meters, but disagrees that the definition of emergency engine creates a loophole. EPA believes it proposed an adequate definition and it is not possible to include every possible situation that might constitute an emergency in the definition. EPA agrees that it is important to provide language that minimizes the possibility of affected sources avoiding more stringent requirements. EPA believes the definition is clear, and furthermore, believes that the requirement to keep records of the hours of operation of the engine in emergency and non-emergency situations will prevent misuse. EPA does agree with the commenter that it is appropriate to tighten the definition as far as precluding certain activities and has included in the definition of emergency engine that stationary SI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines. This language is consistent with the final CI NSPS. As for the comment related to labeling of emergency engines, EPA proposed in § 60.4242(d) that manufacturers label their emergency engines that only meet the emergency engine emission standards as such and that the engine is for emergency use only. This requirement has been retained in the final rule, and EPA believes this satisfies the commenter's concern on this topic.

Regarding the comment on EPA's provision allowing natural gas-fired stationary SI engines to operate on propane fuel for up to 100 hours per year for emergency operations, EPA included that provision to provide flexibility in emergency situations when the main fuel may not be available. EPA believes such an allowance is appropriate and does not expect that emissions will be significantly affected by including a provision to operate on propane for 100 hours per year for emergency purposes. Numbers EPA has available, which are presented in information included in the docket to the proposed rule, show that regulated pollutant emissions (NO_X, CO, and VOC/NMHC/THC) from engines running on propane are the same or lower than emissions from engines running on natural gas (rich burn and lean burn), with a few exceptions. Therefore, for the reasons provided, it is not expected that the propane allowance will significantly affect emissions and EPA has retained the propane use allowance in the final rule.

Comment: Two commenters believe that the emergency engine requirements in the proposed NSPS/NESHAP are more restrictive than the requirements in the RICE NESHAP. The commenters believe the proposed rules should be amended to be consistent with the emergency engine definition and exemption provided in the RICE NESHAP. Two commenters said that the emergency engine definition in the existing RICE MACT that was developed based on input and review from a broad stakeholder group should be retained. The commenters believe that the proposed rule substantially and materially alters the definition as follows:

- Maintenance and readiness testing limited to 100 hours per year versus no time limit on the use of emergency stationary RICE for routine testing and maintenance.
- Elimination of an additional 50 hours per year in non-emergency situations.
- Requirement to maintain documentation for maintenance and testing operation to ensure the 100 hour per year limit is not exceeded.
- Maintenance and readiness testing operation provisions as recommended by third party Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine has been introduced.

The commenters believe that the current NESHAP places no restriction on the use of emergency stationary RICE in emergency situations and for routine testing and maintenance. In addition, it offers an additional 50 hours per year in non-emergency situations. This clause was included as an outcome of the industrial combustion coordinated rulemaking (ICCR) process to provide adequate time to tests systems related to the emergency unit. For example, firewater systems where engine checks are necessary, and a systems check is also required and may be completed as part of a safety exercise. Commenter 150 believes that EPA has confused the additional non-emergency allocation with a perceived hour restriction for

annual maintenance and readiness checks.

Also, the commenter stated that in consideration relative to the RICE MACT, the proposed NESHAP amendments broaden the category of affected equipment to include units that are less than or equal to 500 HP and area sources. With more stringent criteria in the proposed rule, the commenter believes that EPA is requiring more stringency for small engines and area sources than what was deemed necessary for larger engines under the existing RICE MACT. Further, the added burden and cost associated with documenting and maintaining records describing why the engine was operating must be assessed and the benefit for this requirement rationalized. As an alternative to continuing with the revised definition in the proposed rule, the commenters recommend that the current definition be retained.

Response: It is true that EPA proposed a more stringent emergency engine definition and requirements as compared to the existing RICE MACT emergency engine definition. Regarding the commenters' request to retain the existing RICE MACT definition, EPA believes that keeping the proposed definition is appropriate for the most part. EPA recognizes that the existing definition was based on input and review from industry, and EPA is not ignoring the products of the ICCR process nor the extensive participation and commitment of industry members. However, EPA has learned a lot since the ICCR process from 10 years ago and knows now that there are health consequences for failing to regulate emergency engines and for having a broad definition that allows engines that are used for more than emergencies to emit at higher levels. EPA feels the existing RICE MACT definition of emergency engines was not given appropriate restrictions and would unintentionally allow significant operation of an engine in non-emergency situations such as the unlimited maintenance allowance.

Based on vast information received since the time of the ICCR process and the RICE MACT rulemaking, EPA has concluded that it is appropriate to limit the hours of operation during maintenance and testing to 100 hours per year. The issue of allowable hours for maintenance and testing was discussed extensively under the CI NSPS rulemaking and more information can be found in the final CI NSPS rule (71 FR 39153) and Responses to Comments (RTC) document (see EPA–HQ–OAR–2005–0029–0324). EPA recognizes that the existing RICE MACT places no restriction on the use of emergency engines in emergency situations and for routine maintenance and testing. EPA agrees that is appropriate to retain a no time limit on the use of emergency stationary engines in emergency situations; however, does not agree that routine maintenance and testing should be unlimited. Again, EPA has gained much information regarding emergency engine operation since the ICCR process a decade ago and must consider environmental and health consequences for failing to regulate the operation of emergency engines appropriately and prevent loop-holes. Numerous comments received during the public comment period for NSPS for stationary CI engines argued that EPA should allow 100 hours per year for emergency engines to conduct necessary maintenance and testing. Based on those comments, EPA continues to believe that it is appropriate to finalize a 100 hours per year limit for maintenance and testing operation for emergency engines under the NSPS. EPA disagrees that maintenance and testing should be unrestricted. However, EPA believes it is crucial to allow sufficient hours for maintenance and readiness testing to ensure that the emergency engine will respond as expected in the event of an emergency, and EPA believes that 100 hours per year is adequate.

The commenters expressed particular concern over the elimination of the additional 50 hours per year for non-emergency situations included in the original RICE MACT emergency engine definition, but excluded from the proposed requirements affecting emergency engines in this rule and EPA understands the commenters' concerns. It is true that in the preamble to the proposed rule, EPA confused the existing 50 hours per year currently allowed for non-emergency operation in the RICE MACT with the 100 hours per year for maintenance and readiness checks, and may be, as the commenters indicated, a result of comparing the SI NSPS too closely to the CI NSPS that was recently promulgated. Industry has expressed that it might be forced to use portable emergency engines instead of stationary emergency engines to avoid certain requirements of the rule and indicated that the portable engines will be dirtier than the stationary engines. EPA certainly does not wish to create such outcome of the rulemaking and therefore believes it is appropriate to allow owners/operators to operate their engines for 50 hours per year for non-emergency purposes and has made that clarification in § 60.4243(d) of the final rule. However, EPA is concerned that if stationary emergency engines are allowed to operate in non-emergency situations they may be inappropriately used for peaking power. In response to EPA's concern, industry has noted that its intent is not to use stationary emergency engines for peaking purposes. Even so, EPA has specified that the 50 hours allowed for non-emergency situations cannot be used to generate income for a facility to supply power to an electric grid or otherwise supply power as part of a financial arrangement with another entity. If this happens, the engine is no longer considered to be an emergency engine and the engine would be required to meet the non-emergency engine emission standards, which are more stringent. In addition, the allowed 50 hours of operation for non-emergency situations must be within the currently allowable 100-hour total for purposes of maintenance and testing. In other words, the total hours of operation per year cannot exceed 100 hours for purposes of maintenance and testing and for running the engine for non-emergency purposes.

Regarding the requirement to maintain records to ensure the 100-hour limit is not exceeded for emergency engines as specified in § 60.4245(b) of the proposed rule, EPA feels this requirement is necessary and appropriate. This requirement is consistent with the final CI NSPS (see 40 CFR 60.4214(b)). To ensure compliance with the 100-hour limit, EPA must require recordkeeping for all operation of emergency engines, emergency situations as well as required testing. This is a reasonable way to enforce this limit to ensure that the non-emergency hours of operation are not exceeded beyond allowable limits. Clearly, this requirement yields environmental benefits since it will limit the likelihood that sources subject to the rule that operate emergency engines would exceed the 100-hour annual non-emergency limit. As noted in the RTC document for the final CI NSPS, many States require reporting of both emergency and non-emergency use, e.g., the California ATCM requires a monthly log of all operation by emergency engines. Also, certain facilities already maintain such documentation, e.g., operating hours and operating conditions are currently maintained at hospitals. EPA wishes to prevent owners/operators from operating emergency engines illegally and circumventing the regulation and believes the additional recordkeeping requirements will greatly enhance EPA's ability to enforce this requirement. The

requirement will ensure that there is documentation that the engine was operating in emergency situations when it was running beyond the annual limits permitted for maintenance and testing. There is no annual cap on the hours of operation during an emergency situation, but it is important to have documentation that such operation was indeed for emergency purposes. As noted, owners/operators of emergency engines already keep documentation of when and why such engines were operated so EPA feels the recordkeeping requirement is no significant additional burden.

However, EPA does believe it is necessary to clarify that emergency engines above 500 HP at major sources that were installed prior to the proposal date for this rule (June 12, 2006), but after the proposal date (December 19, 2002) for the previous RICE MACT (and thus, new emergency engines under 40 CFR part 63, subpart ZZZZ, and subject to the old rule) should be governed by the old definition of emergency engines, except that the definition includes the clarification that emergency engines do not include engines used for peaking power or to supply power to an electric grid or otherwise supply power as part of a financial arrangement with another entity. This clarification has been made to the definition of emergency stationary RICE in section 63.6675 of the final rule. EPA believes this clarification addresses some of the commenters' concerns on this issue.

Comment: One commenter stated that by reducing the scope of engines that qualify as "emergency engines," the proposed revision could expand the universe of engines that are subject to more stringent NESHAP requirements. Commenter 145 believes that its member utilities would be directly affected, since they deploy emergency engines to support their obligation to deliver energy to customers safely and reliably. In addition, this revision would impact utility customers who deploy emergency engines, such as hospitals and nursing homes, since there is no minimal size threshold on the engines affected by the proposal.

Response: EPA disagrees that the rule necessarily expands the universe of engines that are subject to the standards applicable to non-emergency engines. Operation of engines during emergencies is not restricted by the rule and if an engine is truly an emergency engine, it would not be subject to more stringent requirements. Available information indicates that emergency engines operate on average about 50 hours per year, which includes the hours spent for maintenance and testing purposes. EPA recognizes that there may be stationary emergency engine applications that operate beyond 50 hours per year for maintenance and testing purposes, which is why EPA proposed a 100-hour allowance for such purposes. EPA received numerous comments on the testing and maintenance allowance on the proposed CI NSPS. Based on the number of commenters who indicated that the proposed maintenance and testing allowance of 30 hours per year was not enough, EPA chose to increase the number to 100 hours per year, which was consistent with what commenters recommended. Even though the original RICE NESHAP covering stationary engines greater than 500 HP located at major sources did not have a time limit on the use of emergency stationary engines for routine testing and maintenance, EPA believes that providing 100 hours per year is more than sufficient. In those few cases where 100 hours is not sufficient, EPA has included the provision allowing owners/operators to petition for additional hours (unless the owner/operator maintains records indicating that Federal, State, or local standards require maintenance and testing of emergency ICE beyond 100 hours per year, in which case, a petition is not necessary.) Note, however, that in the final rule, EPA has made it clear that "new" engines affected by the NESHAP that are installed prior to the proposal of the NSPS would be covered by the old definition included in the original NESHAP at 40 CFR part 63, subpart ZZZZ. In addition, EPA has specified that 50 of the 100 hours allowed for maintenance and testing can be use for non-emergency purposes.

E. Manufacturer O&M Requirements

Comment: Several commenters expressed concern over the proposed requirements requiring owners/operators to operate and maintain SI ICE according to the manufacturer's written instructions or procedures developed by the owners/operators that are approved by the engine manufacturer. One commenter believes that compliance requirements should reflect best practices developed by the owners/operators with experience with using the engines in the field. Another commenter felt that the manufacturers do not have the long-term experience in operating and maintaining these engines in the field and recommended that the proposed NESHAP allow owners/operators to use the existing maintenance requirements of the General Provisions of both the NSPS (40 CFR part 60, subpart A) and the NESHAP (40 CFR part 63, subpart A) rules to meet the requirements of this rule.

One commenter recommended for voluntarily certified engines, the owners/operators be given a choice of either accepting the manufacturers certification or opting for a "verification program" modeled after the performance testing of § 60.4243(d)(2) of the proposal.

One commenter expressed that it is in general agreement that owners/operators should maintain their SI ICE in accordance to the original manufacturer's specifications for larger engines. However, the commenter had concerns about imposing these requirements on limited use and small engines. The commenter believes that this requirement does not appear to be commensurate with the environmental impact.

One commenter expressed that the operation and maintenance (O&M) requirements in manufacturer's manuals is too stringent and inflexible and needs to be changed and stated that engine manufacturers do not want to become involved in approving or reviewing procedures developed by owners/operators. The commenter added that in many cases, owners/operators of stationary engines have developed and follow their own O&M procedures and have extensive experience in operating their engines to optimize performance and life in their specific applications within regulatory emissions limits. Further, the commenter said, owners/operators of non-certified engines are required to conduct performance testing to assure compliance. Therefore, since these owners/operators will use other means to assure compliance, there should not be a regulatory requirement to follow manufacturer's procedures, the commenter expressed. However, if EPA includes the requirement to follow engine manufacturer's procedures in the final rule, the referenced procedures should be limited to those required to maintain emissions control, the commenter said, and recommended that EPA develop a suite of options and requirements to assure compliance as follows:

- For certified engines, owners/operators should be required to set up the engine and follow manufacturers' recommended maintenance, but only for systems or components that affect emissions.
- For non-certified engines, appropriate emissions testing and monitoring should be all that is required.
- In addition, owners/operators should be able to purchase a certified

engine but operate it according to their own procedures. In that case, appropriate emissions testing and monitoring should be all that is required.

One commenter's objection to the proposed requirement to follow the manufacturer's procedures was based on the assertion that most operators of these engines have developed proprietary procedures for their engines, varying from region to region and across the broad spectrum of applications of these engines; that reviewing procedures would subject engine manufacturers to an administrative burden. This requirement is unnecessary, the commenter noted, because owners/operators bear responsibility for compliance, and are already required to demonstrate such compliance through extensive testing.

Two commenters requested that EPA allow owners/operators to define O&M requirements for gas-fired engines, rather than the manufacturer O&M. These two commenters stated that owners/operators have developed and refined O&M practices to address the specific challenges, rigor, and accessibility of their application. However, if EPA chooses to mandate manufacturer O&M, then the commenters requested that the manufacturers be required to reasonably review and approve alternatives, and the cost of the program be borne by the manufacturer. One commenter stated that allowing owners/operators to follow their own O&M procedures is consistent with the requirements of the subpart A General Provisions. The commenter stated that the EPA should clearly indicate that owners/operators of gas-fired engines can choose compliance monitoring based on owners/operators defined O&M and periodic tests even if a certified engine is available.

Response: EPA agrees with some of the comments received on the issue of operating the engine according to manufacturer O&M procedures. EPA agrees that any requirement to operate and maintain engines according to manufacturer instructions should be limited to emission-related operation and maintenance. In addition, in the final rule, EPA has not included the requirement for owners/operators of non-certified engines to operate and maintain their engines according to the manufacturer's written instructions or procedures developed by the owners/operators that are approved by the engine manufacturer. Instead, owners/operators will be required to operate and maintain their engines in a proper manner, consistent with their own maintenance plan. Owners and operators of non-certified engines will be required to keep records of the maintenance performed on the engine. In addition, EPA is requiring performance testing of non-certified engines to demonstrate compliance with the emission standards, consistent with the proposal.

Based on information received during the final rulemaking and in public comments, EPA does not believe it is appropriate to require manufacturer O&M procedures for all owners/operators of certified engines without allowing alternative procedures and is therefore providing an alternative option to owners/operators. However, if an owner/operator has a certified engine that it wishes to operate according to its own well-established procedures based on its own experience with operating that engine (or engines), that particular engine that was originally certified will no longer be considered certified and the engine must be tested. EPA will consider that engine to be operating in a non-certified manner, and will require testing if the engine is greater than or equal to 100 HP. Engines below 100 HP operating in a non-certified manner will be exempt from performance testing, but are required to keep a maintenance plan and records. EPA wishes to encourage the certified route for smaller engines and expects that the majority of engines in this size group will be certified. Engines greater than or equal to 100 HP and less than or equal to 500 HP will be required to conduct a performance within 1 year of startup to demonstrate compliance with the emission standards. These engines will in addition be required to keep a maintenance plan and records of conducted maintenance. Engines greater than 500 HP will in addition to conducting a performance testing within 1 year of startup, also have to conduct subsequent performance testing every 8,760 hours or 3 years (whichever comes first) thereafter.

F. Streamlined Compliance Requirements

Comment: Commenters asserted that the proposed rule is complex partly due to having a combined rulemaking. One commenter stated that the proposed rule is too complex for most small oil and gas operators to be able to fully understand and evaluate. The commenter also believed that the proposed rule requires a person with significant knowledge and experience with CAA rules and requirements to understand it. One commenter stated that the proposed rulemaking added much complexity to the 2004 rulemaking for stationary RICE greater than 500 HP located at major sources, as it combined the adoption of a new NSPS, the expansion of the 2004 requirements to smaller sources, and the addition of the section 112(k) of the CAA requirements covering HAP emissions at area sources. The commenter believed that this complex interweaving of the area source requirements with the major source requirements make the rule very difficult to follow relative to area sources. This commenter recommended that EPA separate the major source from the area source requirements and suggested that one way of doing this would be to establish two separate subparts in 40 CFR part 63 for stationary RICE; one to cover area sources and another to cover major sources. According to the commenter, this approach would simplify and clarify the rule for small businesses and the various State and local agencies. In addition, the commenter recommended that EPA avoid similar interweaving of requirements, and strive to create simpler, easier to understand area source rulemakings under section 112(k) of the CAA in the future.

Two commenters were concerned that there are conflicting or duplicate requirements between the proposed NSPS, existing nonroad regulations, the RICE NESHAP, and the currently proposed NESHAP. Specifically, the existing RICE NESHAP requirements for formaldehyde and the currently proposed emission limit for non-methane hydrocarbons (NMHC) to control HAP are duplicative and may lead to conflicting or impractical reduction requirements for some engines, or may be technically infeasible, the commenters said. Other commenters noted that stationary natural gas engines greater than 500 HP located at a major source are required to comply with 40 CFR part 63, subpart ZZZZ, and the NSPS NMHC limits. According to one commenter, it also creates confusion, since it may not be technically feasible to meet the various standards required in the NSPS and the NESHAP simultaneously. Three commenters recommended that all engines greater than 500 HP and all 4SLB engines greater than 250 HP located at major sources be exempt from meeting the NMHC NSPS standards. The emissions controls needed to meet the NESHAP standards applicable to those engines are sufficient to reduce HAP and other HC emissions. Elimination of the NMHC standard for that group of engines in the NSPS will simplify the rules, eliminate confusing, redundant, and possibly conflicting

requirements, and will relieve owners/operators from unnecessary testing and monitoring requirements, according to commenters.

Response: EPA believes that the approach taken to have a combined rulemaking is more effective than having separate rules for the same types of facilities and will help reduce burden and EPA also believes that having a combined rulemaking, as well as regulations that refer to one another and are promulgated concurrently, actually simplifies compliance for affected sources. Commenters are reminded that Congress requires EPA to promulgate standards under both sections 111 and 112 of the CAA, which requires that owners and operators of sources covered under both sections are required to meet standards under both sections. However, EPA has made a major simplification in the final rule and has included a provision in section 63.6590 of the final NESHAP that owners/operators of new and reconstructed engines less than 500 HP located at major sources (except new and reconstructed 4SLB engines between 250 and 500 HP) and engines located at area sources will be in compliance with the NESHAP if they are in compliance with the NSPS. This approach is substantively the same as the approach in the notice of proposed rulemaking, at least in terms of emission requirements, but EPA believes this approach more clearly streamlines and simplifies compliance and greatly reduces the complexity that may be associated with demonstrating compliance for owners/operators and makes the rule easy to understand for all parties affected, including small business owners and State and local agencies. Additionally, for the most part the only thing required from small engine owners/operators is that they purchase a certified engine, which EPA believes will be available for most, if not all, of the smaller engines, and operate the engine according to the manufacturer's specifications. EPA further notes that even for non-certified engines, requirements are reduced, especially for smaller engines. However, EPA appreciates the commenters' concerns and has made changes to the proposed rule that will further help affected parties understand and evaluate the requirements, as discussed above.

EPA understands the commenters' concerns and agrees that there may be some duplication in the proposed rule and has taken steps in the final rule to simplify the compliance process for owners/operators by removing potential duplicative and/or conflicting requirements. Specifically, EPA realizes that certain engines will be subject to two sets of emission standards and regulations. New engines over 500 HP located at major sources would be subject to the NESHAP as well as the NSPS. Stationary 4SLB engines between 250 and 500 HP located at major sources would also be subject to the NESHAP and NSPS. EPA does not agree with the commenters that recommend that EPA exempt all engines greater than 500 HP and 4SLB above 250 HP at major sources from meeting the NSPS NMHC (now VOC) standard. These stationary engines will be required to comply with both regulations. One regulation addresses HAP emissions and the other regulation addresses criteria pollutants. The commenters provide no data or analysis indicating that it would be infeasible to meet both regulations, and EPA has shown that the standards under both regulations are feasible.

For the current 40 CFR part 63, subpart ZZZZ, EPA did not find that there is a good relationship between CO emission concentration or CO emission reductions and HAP emission concentrations or HAP emission reductions from rich burn engines equipped with NSCR. Therefore, in that rule, EPA could not use CO as a surrogate for HAP for rich burn engines. For that reason, EPA cannot exempt stationary rich burn engines from either regulation, and rich burn engines greater than 500 HP located at major sources have to comply with the formaldehyde emission standard in the RICE NESHAP (percent reduction or concentration limit) and the NO_x, CO, and VOC emission standards in the SI NSPS.

However, for SI lean burn engines, under the existing RICE NESHAP, EPA established a good relationship between CO emission reductions and HAP emission reductions from 4SLB engines with oxidation catalyst systems. Therefore, EPA concluded that CO emission reductions could serve as a surrogate for HAP emission reductions for SI lean burn engines with oxidation catalysts. Since the existing RICE NESHAP contains emission standards for CO and formaldehyde that are based on the application of oxidation catalysts, it makes sense to exempt these engines from the CO emission standard under the SI NSPS, which would be less stringent than the NESHAP CO standard. For this group of engines, and for 4SLB engines between 250 and 500 HP located at major sources, EPA believes it is more appropriate and reasonable to exempt the engines from the CO standard in the NSPS, since that is the same pollutant that they are testing for in the NESHAP, rather than the VOC standard. Based on comments received and other information analyzed post-proposal, EPA believes that CO is a more appropriate surrogate for formaldehyde than VOC for SI lean burn engines and EPA does not believe VOC should be used as a surrogate for HAP. EPA recognizes that it proposed exempting 4SLB engines between 250 and 500 HP at major sources from the NSPS NMHC standard, but based on new information comments submitted by EUROMOT (EPA–HQ–OAR–2005–0030–0039), EPA now believes that CO is more appropriate and consistent with the NESHAP for 4SLB engines. Therefore, SI lean burn engines greater than or equal to 250 HP located at major sources that comply with the RICE NESHAP only have to comply with the NO_x and VOC standard in the SI NSPS. EPA has included this provision in Table 1 to the final NSPS.

VI. Summary of Environmental, Energy and Economic Impacts

A. What are the air quality impacts?

The final rule is estimated to reduce NO_x emissions from stationary SI ICE by an estimated 77,000 tons per year (tpy), CO emissions by about 45,000 tpy, VOC emissions by about 2,000 tpy, and HAP emissions by approximately 800 tpy in the year 2015. Of the 800 tpy of HAP reduced in 2015, it is expected that about 86 tpy will be the result of requirements under the RICE NESHAP. The final rule is estimated to reduce NO_x emissions by 84,000 tpy, CO emissions by 49,000 tpy, VOC emissions by 2,400 tpy, and HAP emissions by 900 tpy in the year 2020. Of the 900 tpy of HAP reduced in 2020, it is expected that about 100 tpy will be the result of requirements under the RICE NESHAP. The final rule is estimated to reduce NO_x emissions by 99,000 tpy, CO emissions by 56,000 tpy, VOC emissions by 3,000 tpy, and HAP emissions by 1,000 tpy in the year 2030. Of the 1,000 tpy of HAP reduced in 2030, it is expected that about 120 tpy will be the result of requirements under the RICE NESHAP.

EPA estimates that a total of about 150,000 stationary SI engines will be affected by the final rule by the year 2015. A total of 433,000 stationary SI engines will be affected by the year 2030. An estimated 623,000 stationary CI engines will be affected by the final rule by the year 2015. However, stationary CI engines affected by the final rule would also be subject to the CI NSPS. Further information regarding the estimated reductions of the final rule can be found in the memorandum entitled "Cost Impacts and Emission Reductions Associated with Proposed NSPS for Stationary SI ICE and

NESHAP for Stationary RICE," which is available in the docket.

B. What are the cost impacts?

The total national capital cost for the final rule is estimated to be approximately $44 million in the year 2015, with a total national annual cost of $19 million in the year 2015. Total national capital cost for the RICE NESHAP portion of the final rule are $3 million in 2015 with a total annual cost of also $3 million in 2015. In the year 2020, the total national capital and annual costs for the final rule are estimated to be $47 million and $20 million, respectively. Total national capital cost for the RICE NESHAP portion of the final rule are $3.5 million in 2020 with a total annual cost of $3.5 million in 2020. In the year 2030, the total national capital and annual costs for the final rule are estimated to be $54 million and $22 million, respectively. Total national capital cost for the RICE NESHAP portion of the final rule are $4.2 million in 2030 with a total annual cost of $4.3 million in 2030.

C. What are the benefit estimates?

EPA estimates the monetized benefits of this final rule to be about $220 million (2005$). This estimate of benefits reflects the use of the Pope *et al.* (2002) $PM_{2.5}$ mortality estimate. EPA recognizes the uncertainty associated with this estimate and readers may refer to the benefits chapter of the Regulatory Impacts Analysis for a discussion of the range of benefits estimated for this rule. To estimate the human health benefits of NO_X emission reductions from stationary SI engines, EPA followed an approach and methodology described in the Technical Support Document (TSD) accompanying EPA's 2007 benefits analysis of the proposed changes to the National Ambient Air Quality Standards for Ozone. In this analysis, EPA applied dollar per ton benefit transfer coefficients. These benefit per ton estimates relate a one-ton reduction in a given $PM_{2.5}$ precursor, such as NO_X emitted by stationary sources, to an estimate of the total monetized human health benefits of reduced exposure to $PM_{2.5}$. EPA chose these transfer coefficients as the basis for estimating the benefits from emission reductions of these two pollutants because the coefficients were derived for sources that share many of the same key attributes as those covered here. These elements include the stack height and the pollutant affected-NO_X. Thus EPA believes that it can generate a reasonable estimate of benefits for this final rule using a benefits transfer approach. Specifically, these estimates are based on application of the benefits scaling approach derived from the benefits analyses completed for these rulemakings. Readers interested in the methodology followed to generate these estimates may consult the Technical Support Document supporting the Proposed Ozone NAAQS RIA.[1] A summary of the benefits estimates is in Table 5 of this preamble.

TABLE 5.—ESTIMATE OF MONETIZED BENEFITS BY 2015 ($2005) [a]

$ Benefits/ton	Amount of NO_X emissions reduced (tons)	Monetized benefits (millions of 2005$) [b]
$2,800	77,362	$220

[a] The results are presented assuming a discount rate of three percent.
[b] Estimate rounded to two significant figures.

The specific estimates of benefits per ton of pollutant reductions included in this analysis are largely driven by the concentration response function for premature mortality, which is based on the American Cancer Society cohort (ACS) (Pope, C.A. III, *et al.*, "Lung Cancer, Cardiopulmonary Mortality, and Long-Term Exposure to Fine Particulate Air Pollution," JAMA, 2002).

Since the publication of Clean Air Interstate Rulemaking (CAIR), the EPA's Office of Air and Radiation has adopted a different format for its benefits analysis in which characterization of the uncertainty in the concentration response function is integrated into the main benefits analysis. The PM NAAQS RIA analysis prepared last year provides an indication of the sensitivity of our results to the use of alternative concentration response functions, including those derived from the recently completed expert elicitation study. Specifically, compared to the final PM NAAQS estimate of the mean mortality from the ACS cohort, the expert-based premature mortality incidence ranged from 50 percent of the mean ACS estimate to more than five times the size of the ACS mean estimate. The Agency intends to consider using information to update our benefits estimates as part of an approach similar to that used in the PM NAAQS Regulatory Impact Analysis (RIA) in the benefits analyses for future rulemakings.

EPA estimates the annualized benefits of this rulemaking (the NSPS and NESHAP together) to be about $220 million (2005$) and annualized costs to be $22 million (2005$). Thus, benefits exceed cost by about to $200 million in 2015. EPA believes that the benefits are likely to exceed the costs by a significant margin under this rulemaking even when taking into account uncertainties in the cost and benefit estimates. For more information, please refer to the RIA for this final rule that is available in the docket.

D. What are the economic impacts?

The impacts to producers and consumers affected by this final rule are higher product prices and outputs. Prices for affected engines that are larger than 175 HP may increase from 5 to 7 percent, and prices for engines smaller than 175 HP may increase by 17 to 33 percent. Production of affected engines, however, should only fall by between 0.5 and 3.3 percent since previous analyses by EPA of engine markets done for the Final Nonroad Diesel Engine Rule suggest a small reaction in output due to a large price increase. Hence, the overall economic impact on affected industries should be small.

E. What are the non-air health, environmental and energy impacts?

EPA does not anticipate any significant non-air health, environmental or energy impacts as a result of the final rule.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under section 3(f)(1) of Executive Order 12866 (58 FR 51735, October 4, 1993), this action is an "economically significant regulatory action" because it is likely to have an annual affect on the economy of $100 million or more. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NSPS General Provisions (40 CFR part 60, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically

[1] Technical Support Document: Calculating Benefit per-Ton Estimates. EPA–HQ–OAR–2006–0834.

authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to 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.

This final rule will require notifications from certain engines and compliance reports. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of this final rule) is estimated to be 132,164 labor hours per year at a total annual cost of $17,995,722. This estimate includes a one-time notification for engines greater than 500 HP that are non-certified, engine certification, engine performance testing, and recordkeeping. There are no capital/start-up costs associated with the monitoring requirements over the 3-year period of the ICR. The operation and maintenance costs for the monitoring requirements over the 3-year period of the ICR are estimated to be $8,498,888 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule is expected to affect 21 ultimate parent businesses that are manufacturers of affected SI engines. Five of the parent businesses are small according to the SBA small business size standard. One of these five firms would have an annualized cost of more than one percent of sales associated with meeting the requirements; the estimated cost is about five percent of the annual sales for this small firm. In addition, for the industries in which small firms are found that may be affected by this final rule, either by purchasing a compliant SI engine or by performing the required testing, the estimated cost of this rule is 0.10 percent of sales or less. Also, no other adverse impacts are expected to these affected small businesses.

For more information on the small entity impacts associated with the final rule, please refer to the Economic Impact and Small Business Analyses in the public docket. These analyses can be found in the Regulatory Impact Analysis for this final rule.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. When developing the revised standards, EPA took special steps to ensure that the burdens imposed on small entities were minimal. EPA conducted several meetings with industry trade associations to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of

the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This final rule 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, as specified in Executive Order 13132. This final rule primarily affects private industry, and does not impose significant economic costs on State or local governments. Thus, Executive Order 13132 does not apply to the final rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials.

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

Executive Order 13175, entitled "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule 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. Thus, Executive Order 13175 does not apply to the final rule.

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

Executive Order 13045 "Protection of Children from Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. EPA has prepared an analysis of energy impacts that explains this conclusion as follows.

The increase in petroleum product output, which includes increases in fuel production, is estimated at less than 0.03 percent, or 11.1 trillion BTUs as based on 2007 Annual Energy Outlook data provided by the U.S. Energy Information Administration. The reduction in coal production is zero since no coal-fired units will be affected by the requirements of the final rule. The reduction in electricity output is estimated at 0.10 percent, or about 15.1 trillion BTUs per year based on 2007 U.S. electricity production nationwide. Production of natural gas is expected to decrease by 13.83 trillion BTU, a decrease of 0.07 percent from 2007 U.S. production levels. The maximum of all energy price increases, which include increases in natural gas prices as well as those for petroleum products, and electricity, is estimated to be 0.10 percent nationwide. Energy distribution costs may increase by roughly no more than the same amount as electricity rates. EPA expects that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies. The increase in cost of energy production should be minimal given the very small increases in energy prices and outputs shown above. All of the estimates presented above account for some pass-through of costs to consumers as well as the direct cost impact to producers. For more information on these estimated energy effects, please refer to the economic impact analysis for the final rule. This analysis is available in the public docket.

Therefore, EPA concludes that this rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies.

The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS. These rules involve technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 3, 3A, 3B, 4, 7E, 10, 18, 19, 25A, 320, and 323 (40 CFR part 60, appendix A); and American Society of Testing and Materials (ASTM) methods ASTM D6348–03 and ASTM D6522–00 (2005).

Consistent with the NTTAA, EPA conducted searches to identify voluntary potentially applicable consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 19, 320, and 323. The search and review results are in the docket for these rules.

The search identified two voluntary consensus standards as acceptable alternatives to EPA Methods. In addition, the standards, ASTM D6348–03 and ASTM D6522–00 (2005) cited in these rules are also VCS.

The standard ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses," is cited in this rule for its manual method for measuring the oxygen content of the exhaust gas. This part of ASME PTC 19.10–1981 is an acceptable alternative to EPA Method 3B.

The standard ASTM D6420–99 (2004), "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry" is cited in this rule as an alternative to EPA Method 18 for measuring total nonmethane organic.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated GC/MS. While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 is a suitable alternative to Method 18 only where:

(1) The target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and

(2) The target concentration is between 150 ppbv and 100 ppmv.

For target compound(s) not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, 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. For target compound(s) not listed in Section 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA will cite ASTM D6420–99 in this rule. The EPA will also cite Method 18 as a gas chromatography (GC) option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

The search for emissions measurement procedures identified 13 other voluntary consensus standards. The EPA determined that these 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in these rules were impractical alternatives to EPA test methods for the purposes of these rules. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the 13 methods are discussed in the dockets to the rules.

Under 63.7(f) and 63.8(f) of subpart A of the General Provisions to part 63, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures. In addition, EPA Method 301 describes procedures any source may use to establish the equivalency of alternatives to any EPA reference method.

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

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.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations 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 or low-income population. This rule promulgates new source performance standards and national emission standards for hazardous air pollutants.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on March 18, 2008.

List of Subjects

40 CFR Part 60

Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

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

40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 90

Administrative practice and procedure, Air pollution control.

40 CFR Part 1048

Administrative practice and procedure, Air pollution control.

40 CFR Part 1065

Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Research.

40 CFR Part 1068

Administrative practice and procedure, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

Dated: December 20, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is to be amended as follows:

PART 60—[AMENDED]

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

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

Subpart A—[Amended]

■ 2. Section 60.17 is amended as follows:

■ a. By revising paragraph (a)(82);

■ b. By redesignating paragraphs (a)(85) through (a)(90) as paragraphs (a)(87) through (a)(92);

■ c. By redesignating paragraph (a)(84) as (a)(85);

■ d. By adding new paragraph (a)(84);

■ e. By adding new paragraph (a)(86);

■ f. By revising paragraph (h)(4); and
■ g. By adding paragraph (n).

The revisions and additions read as follows:

§ 60.17 Incorporation by Reference

* * * * *

(82) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for table 7 of Subpart IIII of this part and table 2 of subpart JJJJ of this part.

* * * * *

(84) ASTM D6420–99 (Reapproved 2004) Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for table 2 of subpart JJJJ of this part.

* * * * *

(86) ASTM D6522–00 (Reapproved 2005), 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, IBR approved for table 2 of subpart JJJJ of this part.

* * * * *

(h) * * *

(4) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], IBR approved for Tables 1 and 3 of subpart EEEE, Tables 2 and 4 of subpart FFFF, Table 2 of subpart JJJJ, and §§ 60.4415(a)(2) and 60.4415(a)(3) of subpart KKKK of this part.

* * * * *

(n) This material is available for purchase from IHS Inc., 15 Inverness Way East, Englewood, CO 80112.

(1) International Organization for Standards 8178–4: 1996(E), Reciprocating Internal Combustion Engines—Exhaust Emission Measurement—Part 4: Test Cycles for Different Engine Applications, IBR approved for § 60.4241(b).

(2) [Reserved]

Subpart JJJJ—[Amended]

■ 3. Part 60 is amended by adding subpart JJJJ to read as follows:

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

Sec.

What This Subpart Covers

§ 60.4230 Am I subject to this subpart?

(a) The provisions of this subpart are applicable to manufacturers, owners, and operators of stationary spark ignition (SI) internal combustion engines (ICE) as specified in paragraphs (a)(1) through (5) of this section. For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

(1) Manufacturers of stationary SI ICE with a maximum engine power less than or equal to 19 kilowatt (KW) (25 horsepower (HP)) that are manufactured on or after July 1, 2008.

(2) Manufacturers of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are gasoline fueled or that are rich burn engines fueled by liquefied petroleum gas (LPG), where the date of manufacture is:

(i) On or after July 1, 2008; or

(ii) On or after January 1, 2009, for emergency engines.

(3) Manufacturers of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are not gasoline fueled and are not rich burn

engines fueled by LPG, where the manufacturer participates in the voluntary manufacturer certification program described in this subpart and where the date of manufacture is:

(i) On or after July 1, 2007, for engines with a maximum engine power greater than or equal to 500 HP (except lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP);

(ii) On or after January 1, 2008, for lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP;

(iii) On or after July 1, 2008, for engines with a maximum engine power less than 500 HP; or

(iv) On or after January 1, 2009, for emergency engines.

(4) Owners and operators of stationary SI ICE that commence construction after June 12, 2006, where the stationary SI ICE are manufactured:

(i) On or after July 1, 2007, for engines with a maximum engine power greater than or equal to 500 HP (except lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP);

(ii) on or after January 1, 2008, for lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP;

(iii) on or after July 1, 2008, for engines with a maximum engine power less than 500 HP; or

(iv) on or after January 1, 2009, for emergency engines with a maximum engine power greater than 19 KW (25 HP).

(5) Owners and operators of stationary SI ICE that commence modification or reconstruction after June 12, 2006.

(b) The provisions of this subpart are not applicable to stationary SI ICE being tested at an engine test cell/stand.

(c) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart as applicable.

(d) For the purposes of this subpart, stationary SI ICE using alcohol-based fuels are considered gasoline engines.

(e) Stationary SI ICE may be eligible for exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C (or the exemptions described in 40 CFR parts 90 and 1048, for engines that would need to be certified to standards in those parts), except that owners and operators, as well as manufacturers, may be eligible to request an exemption for national security.

(f) Owners and operators of facilities with internal combustion engines that are acting as temporary replacement units and that are located at a stationary source for less than 1 year and that have been properly certified as meeting the standards that would be applicable to such engine under the appropriate nonroad engine provisions, are not required to meet any other provisions under this subpart with regard to such engines.

Emission Standards for Manufacturers

§ 60.4231 What emission standards must I meet if I am a manufacturer of stationary SI internal combustion engines?

(a) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) manufactured on or after July 1, 2008, to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(b) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) (except emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) that use gasoline and that are manufactured on or after the applicable date in § 60.4230(a)(2), or manufactured on or after the applicable date in § 60.4230(a)(4) for emergency stationary ICE with a maximum engine power greater than or equal to 130 HP, to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers must certify their emergency stationary SI ICE greater than 25 HP and less than 130 HP that are manufactured on or after the applicable date in § 60.4230(a)(4) to the Phase 1 emission standards in 40 CFR 90.103, applicable to class II engines, and other requirements for new nonroad SI engines in 40 CFR part 90. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cubic centimeters (cc) to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(c) Stationary SI internal combustion engine manufacturers must certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) (except emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) that are rich burn engines that use LPG and that are manufactured on or after the applicable date in § 60.4230(a)(2), or manufactured on or after the applicable date in § 60.4230(a)(4) for emergency stationary ICE with a maximum engine power greater than or equal to 130 HP, to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers must certify their emergency stationary SI ICE greater than 25 HP and less than 130 HP that are manufactured on or after the applicable date in § 60.4230(a)(4) to the Phase 1 emission standards in 40 CFR 90.103, applicable to class II engines, and other requirements for new nonroad SI engines in 40 CFR part 90. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90.

(d) Stationary SI internal combustion engine manufacturers who choose to certify their stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP) (except gasoline and rich burn engines that use LPG and emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) under the voluntary manufacturer certification program described in this subpart must certify those engines to the certification emission standards for new nonroad SI engines in 40 CFR part 1048. Stationary SI internal combustion engine manufacturers who choose to certify their emergency stationary SI ICE greater than 25 HP and less than 130 HP, must certify those engines to the Phase 1 emission standards in 40 CFR 90.103, applicable to class II engines, for new nonroad SI engines in 40 CFR part 90. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards for new nonroad SI engines in 40 CFR part 90. For stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP)

(except gasoline and rich burn engines that use LPG and emergency stationary ICE with a maximum engine power greater than 25 HP and less than 130 HP) manufactured prior to January 1, 2011, manufacturers may choose to certify these engines to the standards in Table 1 to this subpart applicable to engines with a maximum engine power greater than or equal to 100 HP and less than 500 HP.

(e) Stationary SI internal combustion engine manufacturers who choose to certify their stationary SI ICE with a maximum engine power greater than or equal to 75 KW (100 HP) (except gasoline and rich burn engines that use LPG) under the voluntary manufacturer certification program described in this subpart must certify those engines to the emission standards in Table 1 to this subpart. Stationary SI internal combustion engine manufacturers may certify their stationary SI ICE with a maximum engine power greater than or equal to 75 KW (100 HP) that are lean burn engines that use LPG to the certification emission standards for new nonroad SI engines in 40 CFR part 1048. For stationary SI ICE with a maximum engine power greater than or equal to 100 HP (75 KW) and less than 500 HP (373 KW) manufactured prior to January 1, 2011, and for stationary SI ICE with a maximum engine power greater than or equal to 500 HP (373 KW) manufactured prior to July 1, 2010, manufacturers may choose to certify these engines to the certification emission standards for new nonroad SI engines in 40 CFR part 1048 applicable to engines that are not severe duty engines.

§ 60.4232 How long must my engines meet the emission standards if I am a manufacturer of stationary SI internal combustion engines?

Engines manufactured by stationary SI internal combustion engine manufacturers must meet the emission standards as required in § 60.4231 during the certified emissions life of the engines.

Emission Standards for Owners and Operators

§ 60.4233 What emission standards must I meet if I am an owner or operator of a stationary SI internal combustion engine?

(a) Owners and operators of stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) manufactured on or after July 1, 2008, must comply with the emission standards in § 60.4231(a) for their stationary SI ICE.

(b) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) manufactured on or after the applicable date in § 60.4230(a)(4) that use gasoline must comply with the emission standards in § 60.4231(b) for their stationary SI ICE.

(c) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) manufactured on or after the applicable date in § 60.4230(a)(4) that are rich burn engines that use LPG must comply with the emission standards in § 60.4231(c) for their stationary SI ICE.

(d) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP) (except gasoline and rich burn engines that use LPG) must comply with the emission standards for field testing in 40 CFR 1048.101(c) for their non-emergency stationary SI ICE and with the emission standards in Table 1 to this subpart for their emergency stationary SI ICE. Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) and less than 75 KW (100 HP) manufactured prior to January 1, 2011, that were certified to the standards in Table 1 to this subpart applicable to engines with a maximum engine power greater than or equal to 100 HP and less than 500 HP, may optionally choose to meet those standards.

(e) Owners and operators of stationary SI ICE with a maximum engine power greater than or equal to 75 KW (100 HP) (except gasoline and rich burn engines that use LPG) must comply with the emission standards in Table 1 to this subpart for their stationary SI ICE. For owners and operators of stationary SI ICE with a maximum engine power greater than or equal to 100 HP (except gasoline and rich burn engines that use LPG) manufactured prior to January 1, 2011 that were certified to the certification emission standards in 40 CFR part 1048 applicable to engines that are not severe duty engines, if such stationary SI ICE was certified to a carbon monoxide (CO) standard above the standard in Table 1 to this subpart, then the owners and operators may meet the CO certification (not field testing) standard for which the engine was certified.

(f) Owners and operators of any modified or reconstructed stationary SI ICE subject to this subpart must meet the requirements as specified in paragraphs (f)(1) through (5) of this section.

(1) Owners and operators of stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (a) of this section.

(2) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that use gasoline engines, that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (b) of this section.

(3) Owners and operators of stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) that are rich burn engines that use LPG, that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (c) of this section.

(4) Owners and operators of stationary SI natural gas and lean burn LPG engines with a maximum engine power greater than 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (d) or (e) of this section, except that such owners and operators of non-emergency engines and emergency engines greater than or equal to 130 HP must meet a nitrogen oxides (NO_X) emission standard of 3.0 grams per HP-hour (g/HP-hr), a CO emission standard of 4.0 g/HP-hr (5.0 g/HP-hr for non-emergency engines less than 100 HP), and a volatile organic compounds (VOC) emission standard of 1.0 g/HP-hr, or a NO_X emission standard of 250 ppmvd at 15 percent oxygen (O_2), a CO emission standard 540 ppmvd at 15 percent O_2 (675 ppmvd at 15 percent O_2 for non-emergency engines less than 100 HP), and a VOC emission standard of 86 ppmvd at 15 percent O_2, where the date of manufacture of the engine is:

(i) Prior to July 1, 2007, for non-emergency engines with a maximum engine power greater than or equal to 500 HP;

(ii) Prior to July 1, 2008, for non-emergency engines with a maximum engine power less than 500 HP;

(iii) Prior to January 1, 2009, for emergency engines.

(5) Owners and operators of stationary SI landfill/digester gas ICE engines with a maximum engine power greater than 19 KW (25 HP), that are modified or reconstructed after June 12, 2006, must comply with the same emission standards as those specified in paragraph (e) of this section for stationary landfill/digester gas engines.

(g) Owners and operators of stationary SI wellhead gas ICE engines may petition the Administrator for approval on a case-by-case basis to meet emission standards no less stringent than the emission standards that apply to

stationary emergency SI engines greater than 25 HP and less than 130 HP due to the presence of high sulfur levels in the fuel, as specified in Table 1 to this subpart. The request must, at a minimum, demonstrate that the fuel has high sulfur levels that prevent the use of aftertreatment controls and also that the owner has reasonably made all attempts possible to obtain an engine that will meet the standards without the use of aftertreatment controls. The petition must request the most stringent standards reasonably applicable to the engine using the fuel.

(h) Owners and operators of stationary SI ICE that are required to meet standards that reference 40 CFR 1048.101 must, if testing their engines in use, meet the standards in that section applicable to field testing, except as indicated in paragraph (e) of this section.

§ 60.4234 How long must I meet the emission standards if I am an owner or operator of a stationary SI internal combustion engine?

Owners and operators of stationary SI ICE must operate and maintain stationary SI ICE that achieve the emission standards as required in § 60.4233 over the entire life of the engine.

Other Requirements for Owners and Operators

§ 60.4235 What fuel requirements must I meet if I am an owner or operator of a stationary SI gasoline fired internal combustion engine subject to this subpart?

Owners and operators of stationary SI ICE subject to this subpart that use gasoline must use gasoline that meets the per gallon sulfur limit in 40 CFR 80.195.

§ 60.4236 What is the deadline for importing or installing stationary SI ICE produced in the previous model year?

(a) After July 1, 2010, owners and operators may not install stationary SI ICE with a maximum engine power of less than 500 HP that do not meet the applicable requirements in § 60.4233.

(b) After July 1, 2009, owners and operators may not install stationary SI ICE with a maximum engine power of greater than or equal to 500 HP that do not meet the applicable requirements in § 60.4233, except that lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP that do not meet the applicable requirements in § 60.4233 may not be installed after January 1, 2010.

(c) For emergency stationary SI ICE with a maximum engine power of greater than 19 KW (25 HP), owners and operators may not install engines that do not meet the applicable requirements in § 60.4233 after January 1, 2011.

(d) In addition to the requirements specified in §§ 60.4231 and 60.4233, it is prohibited to import stationary SI ICE less than or equal to 19 KW (25 HP), stationary rich burn LPG SI ICE, and stationary gasoline SI ICE that do not meet the applicable requirements specified in paragraphs (a), (b), and (c) of this section, after the date specified in paragraph (a), (b), and (c) of this section.

(e) The requirements of this section do not apply to owners and operators of stationary SI ICE that have been modified or reconstructed, and they do not apply to engines that were removed from one existing location and reinstalled at a new location.

§ 60.4237 What are the monitoring requirements if I am an owner or operator of an emergency stationary SI internal combustion engine?

(a) Starting on July 1, 2010, if the emergency stationary SI internal combustion engine that is greater than or equal to 500 HP that was built on or after July 1, 2010, does not meet the standards applicable to non-emergency engines, the owner or operator must install a non-resettable hour meter.

(b) Starting on January 1, 2011, if the emergency stationary SI internal combustion engine that is greater than or equal to 130 HP and less than 500 HP that was built on or after January 1, 2011, does not meet the standards applicable to non-emergency engines, the owner or operator must install a non-resettable hour meter.

(c) If you are an owner or operator of an emergency stationary SI internal combustion engine that is less than 130 HP, was built on or after July 1, 2008, and does not meet the standards applicable to non-emergency engines, you must install a non-resettable hour meter upon startup of your emergency engine.

Compliance Requirements for Manufacturers

§ 60.4238 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines ≤19 KW (25 HP)?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(a) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4239 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that use gasoline?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(b) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90, and manufacturers of stationary SI emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 standards in 40 CFR 90.103, applicable to class II engines, must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4240 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines >19 KW (25 HP) that are rich burn engines that use LPG?

Stationary SI internal combustion engine manufacturers who are subject to the emission standards specified in § 60.4231(c) must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must test their engines as specified in that part. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90, and manufacturers of emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 standards in 40 CFR 90.103, applicable to class II engines, must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

§ 60.4241 What are my compliance requirements if I am a manufacturer of stationary SI internal combustion engines participating in the voluntary certification program?

(a) Manufacturers of stationary SI internal combustion engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and

are not rich burn engines that use LPG can choose to certify their engines to the emission standards in § 60.4231(d) or (e), as applicable, under the voluntary certification program described in this subpart. Manufacturers who certify their engines under the voluntary certification program must meet the requirements as specified in paragraphs (b) through (g) of this section. In addition, manufacturers of stationary SI internal combustion engines who choose to certify their engines under the voluntary certification program, must also meet the requirements as specified in § 60.4247.

(b) Manufacturers of engines other than those certified to standards in 40 CFR part 90 must certify their stationary SI ICE using the certification procedures required in 40 CFR part 1048, subpart C, and must follow the same test procedures that apply to large SI nonroad engines under 40 CFR part 1048, but must use the D–1 cycle of International Organization of Standardization 8178–4: 1996(E) (incorporated by reference, see 40 CFR 60.17) or the test cycle requirements specified in Table 5 to 40 CFR 1048.505, except that Table 5 of 40 CFR 1048.505 applies to high load engines only. Stationary SI internal combustion engine manufacturers who certify their stationary SI ICE with a maximum engine power less than or equal to 30 KW (40 HP) with a total displacement less than or equal to 1,000 cc to the certification emission standards and other requirements for new nonroad SI engines in 40 CFR part 90, and manufacturers of emergency engines that are greater than 25 HP and less than 130 HP who meet the Phase 1 standards in 40 CFR 90.103, applicable to class II engines, must certify their stationary SI ICE using the certification procedures required in 40 CFR part 90, subpart B, and must test their engines as specified in that part.

(c) Certification of stationary SI ICE to the emission standards specified in § 60.4231(d) or (e), as applicable, is voluntary, but manufacturers who decide to certify are subject to all of the requirements indicated in this subpart with regard to the engines included in their certification. Manufacturers must clearly label their stationary SI engines as certified or non-certified engines.

(d) Manufacturers of natural gas fired stationary SI ICE who conduct voluntary certification of stationary SI ICE to the emission standards specified in § 60.4231(d) or (e), as applicable, must certify their engines for operation using fuel that meets the definition of pipeline-quality natural gas. The fuel used for certifying stationary SI natural gas engines must meet the definition of pipeline-quality natural gas as described in § 60.4248. In addition, the manufacturer must provide information to the owner and operator of the certified stationary SI engine including the specifications of the pipeline-quality natural gas to which the engine is certified and what adjustments the owner or operator must make to the engine when installed in the field to ensure compliance with the emission standards.

(e) Manufacturers of stationary SI ICE that are lean burn engines fueled by LPG who conduct voluntary certification of stationary SI ICE to the emission standards specified in § 60.4231(d) or (e), as applicable, must certify their engines for operation using fuel that meets the specifications in 40 CFR 1065.720.

(f) Manufacturers may certify their engines for operation using gaseous fuels in addition to pipeline-quality natural gas; however, the manufacturer must specify the properties of that fuel and provide testing information showing that the engine will meet the emission standards specified in § 60.4231(d) or (e), as applicable, when operating on that fuel. The manufacturer must also provide instructions for configuring the stationary engine to meet the emission standards on fuels that do not meet the pipeline-quality natural gas definition. The manufacturer must also provide information to the owner and operator of the certified stationary SI engine regarding the configuration that is most conducive to reduced emissions where the engine will be operated on gaseous fuels with different quality than the fuel that it was certified to.

(g) A stationary SI engine manufacturer may certify an engine family solely to the standards applicable to landfill/digester gas engines as specified in § 60.4231(d) or (e), as applicable, but must certify their engines for operation using landfill/digester gas and must add a permanent label stating that the engine is for use only in landfill/digester gas applications. The label must be added according to the labeling requirements specified in 40 CFR 1048.135(b).

(h) For purposes of this subpart, when calculating emissions of volatile organic compounds, emissions of formaldehyde should not be included.

§ 60.4242 What other requirements must I meet if I am a manufacturer of stationary SI internal combustion engines?

(a) Stationary SI internal combustion engine manufacturers must meet the provisions of 40 CFR part 90 or 40 CFR part 1048, as applicable, as well as 40 CFR part 1068 for engines that are certified to the emission standards in 40 CFR part 1048, except that engines certified pursuant to the voluntary certification procedures in § 60.4241 are subject only to the provisions indicated in § 60.4247 and are permitted to provide instructions to owners and operators allowing for deviations from certified configurations, if such deviations are consistent with the provisions of paragraphs § 60.4241(c) through (f). Labels on engines certified to 40 CFR part 1048 must refer to stationary engines, rather than or in addition to nonroad engines, as appropriate.

(b) An engine manufacturer certifying an engine family or families to standards under this subpart that are identical to standards applicable under 40 CFR part 90 or 40 CFR part 1048 for that model year may certify any such family that contains both nonroad and stationary engines as a single engine family and/or may include any such family containing stationary engines in the averaging, banking and trading provisions applicable for such engines under those parts.

(c) Manufacturers of engine families certified to 40 CFR part 1048 may meet the labeling requirements referred to in paragraph (a) of this section for stationary SI ICE by either adding a separate label containing the information required in paragraph (a) of this section or by adding the words "and stationary" after the word "nonroad" to the label.

(d) For all engines manufactured on or after January 1, 2011, and for all engines with a maximum engine power greater than 25 HP and less than 130 HP manufactured on or after July 1, 2008, a stationary SI engine manufacturer that certifies an engine family solely to the standards applicable to emergency engines must add a permanent label stating that the engines in that family are for emergency use only. The label must be added according to the labeling requirements specified in 40 CFR 1048.135(b).

(e) All stationary SI engines subject to mandatory certification that do not meet the requirements of this subpart must be labeled according to 40 CFR 1068.230 and must be exported under the provisions of 40 CFR 1068.230. Stationary SI engines subject to standards in 40 CFR part 90 may use the provisions in 40 CFR 90.909. Manufacturers of stationary engines with a maximum engine power greater than 25 HP that are not certified to standards and other requirements under 40 CFR part 1048 are subject to the

labeling provisions of 40 CFR 1048.20 pertaining to excluded stationary engines.

Compliance Requirements for Owners and Operators

§ 60.4243 What are my compliance requirements if I am an owner or operator of a stationary SI internal combustion engine?

(a) If you are an owner or operator of a stationary SI internal combustion engine that is manufactured after July 1, 2008, and must comply with the emission standards specified in § 60.4233(a) through (c), you must comply by purchasing an engine certified to the emission standards in § 60.4231(a) through (c), as applicable, for the same engine class and maximum engine power. You must also meet the requirements as specified in 40 CFR part 1068, subparts A through D, as they apply to you. If you adjust engine settings according to and consistent with the manufacturer's instructions, your stationary SI internal combustion engine will not be considered out of compliance. In addition, you must meet one of the requirements specified in (a)(1) and (2) of this section.

(1) If you operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, you must keep records of conducted maintenance to demonstrate compliance, but no performance testing is required if you are an owner or operator.

(2) If you do not operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, your engine will be considered a non-certified engine, and you must demonstrate compliance according to (a)(2)(i) through (iii) of this section, as appropriate.

(i) If you are an owner or operator of a stationary SI internal combustion engine less than 100 HP, you must keep a maintenance plan and records of conducted maintenance to demonstrate compliance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions, but no performance testing is required if you are an owner or operator.

(ii) If you are an owner or operator of a stationary SI internal combustion engine greater than or equal to 100 HP and less than or equal to 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test within 1 year of engine startup to demonstrate compliance.

(iii) If you are an owner or operator of a stationary SI internal combustion engine greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test within 1 year of engine startup and conduct subsequent performance testing every 8,760 hours or 3 years, whichever comes first, thereafter to demonstrate compliance.

(b) If you are an owner or operator of a stationary SI internal combustion engine and must comply with the emission standards specified in § 60.4233(d) or (e), you must demonstrate compliance according to one of the methods specified in paragraphs (b)(1) and (2) of this section.

(1) Purchasing an engine certified according to procedures specified in this subpart, for the same model year and demonstrating compliance according to one of the methods specified in paragraph (a) of this section.

(2) Purchasing a non-certified engine and demonstrating compliance with the emission standards specified in § 60.4233(d) or (e) and according to the requirements specified in § 60.4244, as applicable, and according to paragraphs (b)(2)(i) and (ii) of this section.

(i) If you are an owner or operator of a stationary SI internal combustion engine greater than 25 HP and less than or equal to 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test to demonstrate compliance.

(ii) If you are an owner or operator of a stationary SI internal combustion engine greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test and conduct subsequent performance testing every 8,760 hours or 3 years, whichever comes first, thereafter to demonstrate compliance.

(c) If you are an owner or operator of a stationary SI internal combustion engine that must comply with the emission standards specified in § 60.4233(f), you must demonstrate compliance according paragraph (b)(2)(i) or (ii) of this section, except that if you comply according to paragraph (b)(2)(i) of this section, you demonstrate that your non-certified engine complies with the emission standards specified in § 60.4233(f).

(d) Emergency stationary ICE may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by Federal, State or local government, the manufacturer, the vendor, or the insurance company associated with the engine. Maintenance checks and readiness testing of such units is limited to 100 hours per year. There is no time limit on the use of emergency stationary ICE in emergency situations. The owner or operator may petition the Administrator for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that Federal, State, or local standards require maintenance and testing of emergency ICE beyond 100 hours per year. Emergency stationary ICE may operate up to 50 hours per year in non-emergency situations, but those 50 hours are counted towards the 100 hours per year provided for maintenance and testing. The 50 hours per year for non-emergency situations cannot be used for peak shaving or to generate income for a facility to supply power to an electric grid or otherwise supply power as part of a financial arrangement with another entity. For owners and operators of emergency engines, any operation other than emergency operation, maintenance and testing, and operation in non-emergency situations for 50 hours per year, as permitted in this section, is prohibited.

(e) Owners and operators of stationary SI natural gas fired engines may operate their engines using propane for a maximum of 100 hours per year as an alternative fuel solely during emergency operations, but must keep records of such use. If propane is used for more than 100 hours per year in an engine that is not certified to the emission standards when using propane, the owners and operators are required to conduct a performance test to

demonstrate compliance with the emission standards of § 60.4233.

(f) If you are an owner or operator of a stationary SI internal combustion engine that is less than or equal to 500 HP and you purchase a non-certified engine or you do not operate and maintain your certified stationary SI internal combustion engine and control device according to the manufacturer's written emission-related instructions, you are required to perform initial performance testing as indicated in this section, but you are not required to conduct subsequent performance testing unless the stationary engine is rebuilt or undergoes major repair or maintenance. A rebuilt stationary SI ICE means an engine that has been rebuilt as that term is defined in 40 CFR 94.11(a).

(g) It is expected that air-to-fuel ratio controllers will be used with the operation of three-way catalysts/non-selective catalytic reduction. The AFR controller must be maintained and operated appropriately in order to ensure proper operation of the engine and control device to minimize emissions at all times.

(h) If you are an owner/operator of an stationary SI internal combustion engine with maximum engine power greater than or equal to 500 HP that is manufactured after July 1, 2007 and before July 1, 2008, and must comply with the emission standards specified in sections 60.4233(b) or (c), you must comply by one of the methods specified in paragraphs (h)(1) through (h)(4) of this section.

(1) Purchasing an engine certified according to 40 CFR part 1048. The engine must be installed and configured according to the manufacturer's specifications.

(2) Keeping records of performance test results for each pollutant for a test conducted on a similar engine. The test must have been conducted using the same methods specified in this subpart and these methods must have been followed correctly.

(3) Keeping records of engine manufacturer data indicating compliance with the standards.

(4) Keeping records of control device vendor data indicating compliance with the standards.

Testing Requirements for Owners and Operators

§ 60.4244 What test methods and other procedures must I use if I am an owner or operator of a stationary SI internal combustion engine?

Owners and operators of stationary SI ICE who conduct performance tests must follow the procedures in paragraphs (a) through (f) of this section.

(a) Each performance test must be conducted within 10 percent of 100 percent peak (or the highest achievable) load and according to the requirements in § 60.8 and under the specific conditions that are specified by Table 2 to this subpart.

(b) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 60.8(c). If your stationary SI internal combustion engine is non-operational, you do not need to startup the engine solely to conduct a performance test; however, you must conduct the performance test immediately upon startup of the engine.

(c) You must conduct three separate test runs for each performance test required in this section, as specified in § 60.8(f). Each test run must be conducted within 10 percent of 100 percent peak (or the highest achievable) load and last at least 1 hour.

(d) To determine compliance with the NO_X mass per unit output emission limitation, convert the concentration of NO_X in the engine exhaust using Equation 1 of this section:

$$ER = \frac{C_d \times 1.912 \times 10^{-3} \times Q \times T}{HP - hr} \quad \text{(Eq. 1)}$$

Where:

ER = Emission rate of NO_X in g/HP-hr.

C_d = Measured NO_X concentration in parts per million by volume (ppmv).

1.912×10^{-3} = Conversion constant for ppm NO_X to grams per standard cubic meter at 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meter per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, horsepower-hour (HP-hr).

(e) To determine compliance with the CO mass per unit output emission limitation, convert the concentration of CO in the engine exhaust using Equation 2 of this section:

$$ER = \frac{C_d \times 1.164 \times 10^{-3} \times Q \times T}{HP - hr} \quad \text{(Eq. 2)}$$

Where:

ER = Emission rate of CO in g/HP-hr.

C_d = Measured CO concentration in ppmv.

1.164×10^{-3} = Conversion constant for ppm CO to grams per standard cubic meter at 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meters per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, in HP-hr.

(f) For purposes of this subpart, when calculating emissions of VOC, emissions of formaldehyde should not be included. To determine compliance with the VOC mass per unit output emission limitation, convert the concentration of VOC in the engine exhaust using Equation 3 of this section:

$$ER = \frac{C_d \times 1.833 \times 10^{-3} \times Q \times T}{HP - hr} \quad \text{(Eq. 3)}$$

Where:

ER = Emission rate of VOC in g/HP-hr.

C_d = VOC concentration measured as propane in ppmv.

1.833×10^{-3} = Conversion constant for ppm VOC measured as propane, to grams per

standard cubic meter at 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meters per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, in HP-hr.

(g) If the owner/operator chooses to measure VOC emissions using either Method 18 of 40 CFR part 60, appendix A, or Method 320 of 40 CFR part 63, appendix A, then it has the option of correcting the measured VOC emissions to account for the potential differences in measured values between these methods and Method 25A. The results from Method 18 and Method 320 can be corrected for response factor differences using Equations 4 and 5 of this section. The corrected VOC concentration can then be placed on a propane basis using Equation 6 of this section.

$$RF_i = \frac{C_{Mi}}{C_{Ai}} \qquad \text{(Eq. 4)}$$

Where:

RF_i = Response factor of compound i when measured with EPA Method 25A.

C_{Mi} = Measured concentration of compound i in ppmv as carbon.

C_{Ai} = True concentration of compound i in ppmv as carbon.

$$C_{icorr} = RF_i \times C_{imeas} \qquad \text{(Eq. 5)}$$

Where:

$C_{i\ corr}$ = Concentration of compound i corrected to the value that would have been measured by EPA Method 25A, ppmv as carbon.

$C_{i\ meas}$ = Concentration of compound i measured by EPA Method 320, ppmv as carbon.

$$C_{Peq} = 0.6098 \times C_{icorr} \qquad \text{(Eq. 6)}$$

Where:

C_{Peq} = Concentration of compound i in mg of propane equivalent per DSCM.

Notification, Reports, and Records for Owners and Operators

§ 60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

Owners or operators of stationary SI ICE must meet the following notification, reporting and recordkeeping requirements.

(a) Owners and operators of all stationary SI ICE must keep records of the information in paragraphs (a)(1) through (4) of this section.

(1) All notifications submitted to comply with this subpart and all documentation supporting any notification.

(2) Maintenance conducted on the engine.

(3) If the stationary SI internal combustion engine is a certified engine, documentation from the manufacturer that the engine is certified to meet the emission standards and information as required in 40 CFR parts 90 and 1048.

(4) If the stationary SI internal combustion engine is not a certified engine or is a certified engine operating in a non-certified manner and subject to § 60.4243(a)(2), documentation that the engine meets the emission standards.

(b) For all stationary SI emergency ICE greater than or equal to 500 HP manufactured on or after July 1, 2010, that do not meet the standards applicable to non-emergency engines, the owner or operator of must keep records of the hours of operation of the engine that is recorded through the non-resettable hour meter. For all stationary SI emergency ICE greater than or equal to 130 HP and less than 500 HP manufactured on or after July 1, 2011 that do not meet the standards applicable to non-emergency engines, the owner or operator of must keep records of the hours of operation of the engine that is recorded through the non-resettable hour meter. For all stationary SI emergency ICE greater than 25 HP and less than 130 HP manufactured on or after July 1, 2008, that do not meet the standards applicable to non-emergency engines, the owner or operator of must keep records of the hours of operation of the engine that is recorded through the non-resettable hour meter. The owner or operator must document how many hours are spent for emergency operation, including what classified the operation as emergency and how many hours are spent for non-emergency operation.

(c) Owners and operators of stationary SI ICE greater than or equal to 500 HP that have not been certified by an engine manufacturer to meet the emission standards in § 60.4231 must submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (c)(1) through (5) of this section.

(1) Name and address of the owner or operator;

(2) The address of the affected source;

(3) Engine information including make, model, engine family, serial number, model year, maximum engine power, and engine displacement;

(4) Emission control equipment; and

(5) Fuel used.

(d) Owners and operators of stationary SI ICE that are subject to performance testing must submit a copy of each performance test as conducted in § 60.4244 within 60 days after the test has been completed.

General Provisions

§ 60.4246 What parts of the General Provisions apply to me?

Table 3 to this subpart shows which parts of the General Provisions in §§ 60.1 through 60.19 apply to you.

Mobile Source Provisions

§ 60.4247 What parts of the mobile source provisions apply to me if I am a manufacturer of stationary SI internal combustion engines?

(a) Manufacturers certifying to emission standards in 40 CFR part 90, including manufacturers certifying emergency engines below 130 HP, must meet the provisions of 40 CFR part 90.

(b) Manufacturers certifying to emission standards in 40 CFR part 1048 must meet the provisions of 40 CFR part 1048. Manufacturers of stationary SI internal combustion engines that are less than 100 HP participating in the voluntary certification program must meet the requirements in Table 4 to this subpart.

(c) For manufacturers of stationary SI internal combustion engines participating in the voluntary certification program and certifying engines to Table 1 to this subpart, Table 4 to this subpart shows which parts of the mobile source provisions in 40 CFR parts 1048, 1065, and 1068 apply to you. Compliance with the deterioration factor provisions under 40 CFR 1048.205(n) and 1048.240 will be required for engines built new on and after January 1, 2010. Prior to January 1, 2010, manufacturers of stationary internal combustion engines participating in the voluntary certification program have the option to develop their own deterioration factors based on an engineering analysis.

Definitions

§ 60.4248 What definitions apply to this subpart?

As used in this subpart, all terms not defined herein shall have the meaning given them in the CAA and in subpart A of this part.

Certified emissions life means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for certified emissions life for stationary SI ICE with a maximum engine power less than or equal to 19 KW (25 HP) are given in 40 CFR 90.105. The values for certified emissions life for stationary SI ICE with a maximum engine power greater than 19 KW (25 HP) certified to 40 CFR part 1048 are

given in 40 CFR 1048.101(g). The certified emissions life for stationary SI ICE with a maximum engine power greater than or equal to 75 KW (100 HP) certified under the voluntary manufacturer certification program of this subpart is 5,000 hours or 7 years, whichever comes first.

Certified stationary internal combustion engine means an engine that belongs to an engine family that has a certificate of conformity that complies with the emission standards and requirements in this part, or of 40 CFR part 90 or 40 CFR part 1048, as appropriate.

Combustion turbine means all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle combustion turbine, any regenerative/recuperative cycle combustion turbine, the combustion turbine portion of any cogeneration cycle combustion system, or the combustion turbine portion of any combined cycle steam/electric generating system.

Compression ignition means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

Diesel fuel means any liquid obtained from the distillation of petroleum with a boiling point of approximately 150 to 360 degrees Celsius. One commonly used form is number 2 distillate oil.

Digester gas means any gaseous by-product of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and carbon dioxide (CO_2).

Emergency stationary internal combustion engine means any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary SI ICE used for peak shaving are not considered emergency stationary ICE. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

Engine manufacturer means the manufacturer of the engine. See the definition of "manufacturer" in this section.

Four-stroke engine means any type of engine which completes the power cycle in two crankshaft revolutions, with intake and compression strokes in the first revolution and power and exhaust strokes in the second revolution.

Gasoline means any fuel sold in any State for use in motor vehicles and motor vehicle engines, or nonroad or stationary engines, and commonly or commercially known or sold as gasoline.

Landfill gas means a gaseous by-product of the land application of municipal refuse typically formed through the anaerobic decomposition of waste materials and composed principally of methane and CO_2.

Lean burn engine means any two-stroke or four-stroke spark ignited engine that does not meet the definition of a rich burn engine.

Liquefied petroleum gas means any liquefied hydrocarbon gas obtained as a by-product in petroleum refining of natural gas production.

Manufacturer has the meaning given in section 216(1) of the Clean Air Act. In general, this term includes any person who manufactures a stationary engine for sale in the United States or otherwise introduces a new stationary engine into commerce in the United States. This includes importers who import stationary engines for resale.

Maximum engine power means maximum engine power as defined in 40 CFR 1048.801.

Model year means either: The calendar year in which the engine was originally produced, or the annual new model production period of the engine manufacturer if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year, and it must end by December 31 of the named calendar year. For an engine that is converted to a stationary engine after being placed into service as a nonroad or other non-stationary engine, model year means the calendar year or new model production period in which the engine was originally produced.

Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality.

Other internal combustion engine means any internal combustion engine, except combustion turbines, which is not a reciprocating internal combustion engine or rotary internal combustion engine.

Pipeline-quality natural gas means a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions, and which is provided by a supplier through a pipeline. Pipeline-quality natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1,100 British thermal units per standard cubic foot.

Rich burn engine means any four-stroke spark ignited engine where the manufacturer's recommended operating air/fuel ratio divided by the stoichiometric air/fuel ratio at full load conditions is less than or equal to 1.1. Engines originally manufactured as rich burn engines, but modified prior to June 12, 2006, with passive emission control technology for NO_X (such as pre-combustion chambers) will be considered lean burn engines. Also, existing engines where there are no manufacturer's recommendations regarding air/fuel ratio will be considered a rich burn engine if the excess oxygen content of the exhaust at full load conditions is less than or equal to 2 percent.

Rotary internal combustion engine means any internal combustion engine which uses rotary motion to convert heat energy into mechanical work.

Spark ignition means relating to either: a gasoline-fueled engine; or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

Stationary internal combustion engine means any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is

not a nonroad engine as defined at 40 CFR 1068.30 (excluding paragraph (2)(ii) of that definition), and is not used to propel a motor vehicle or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines.

Stationary internal combustion engine test cell/stand means an engine test cell/stand, as defined in subpart PPPPP of this part, that test stationary ICE.

Stoichiometric means the theoretical air-to-fuel ratio required for complete combustion.

Subpart means 40 CFR part 60, subpart JJJJ.

Two-stroke engine means a type of engine which completes the power cycle in single crankshaft revolution by combining the intake and compression operations into one stroke and the power and exhaust operations into a second stroke. This system requires auxiliary scavenging and inherently runs lean of stoichiometric.

Volatile organic compounds means volatile organic compounds as defined in 40 CFR 51.100(s).

Voluntary certification program means an optional engine certification program that manufacturers of stationary SI internal combustion engines with a maximum engine power greater than 19 KW (25 HP) that do not use gasoline and are not rich burn engines that use LPG can choose to participate in to certify their engines to the emission standards in § 60.4231(d) or (e), as applicable.

Tables to Subpart JJJJ of Part 60

TABLE 1 TO SUBPART JJJJ OF PART 60.—NO_X, CO, AND VOC EMISSION STANDARDS FOR STATIONARY NON-EMERGENCY SI ENGINES ≥100 HP (EXCEPT GASOLINE AND RICH BURN LPG), STATIONARY SI LANDFILL/DIGESTER GAS ENGINES, AND STATIONARY EMERGENCY ENGINES >25 HP

Engine type and fuel	Maximum engine power	Manufacture date	Emission standards[a]					
			g/HP-hr			ppmvd at 15% O_2		
			NO_X	CO	VOC[d]	NO_X	CO	VOC[d]
Non-Emergency SI Natural Gas[b] and Non-Emergency SI Lean Burn LPG[b].	100≤HP<500	7/1/2008	2.0	4.0	1.0	160	540	86
		1/1/2011	1.0	2.0	0.7	82	270	60
Non-Emergency SI Lean Burn Natural Gas and LPG.	500≥HP<1,350	1/1/2008	2.0	4.0	1.0	160	540	86
		7/1/2010	1.0	2.0	0.7	82	270	60
Non-Emergency SI Natural Gas and Non-Emergency SI Lean Burn LPG (except lean burn 500=≥HP<1,350).	HP≥500	7/1/2007	2.0	4.0	1.0	160	540	86
	HP≥500	7/1/2010	1.0	2.0	0.7	82	270	60
Landfill/Digester Gas (except lean burn 500≥HP<1,350).	HP<500	7/1/2008	3.0	5.0	1.0	220	610	80
		1/1/2011	2.0	5.0	1.0	150	610	80
	HP≥500	7/1/2007	3.0	5.0	1.0	220	610	80
		7/1/2010	2.0	5.0	1.0	150	610	80
Landfill/Digester Gas Lean Burn	500≥HP<1,350	1/1/2008	3.0	5.0	1.0	220	610	80
		7/1/2010	2.0	5.0	1.0	150	610	80
Emergency	25>HP<130	1/1/2009	[c] 10	387	N/A	N/A	N/A	N/A
	HP≥130		2.0	4.0	1.0	160	540	86

[a] Owners and operators of stationary non-certified SI engines may choose to comply with the emission standards in units of either g/HP-hr or ppmvd at 15 percent O_2.

[b] Owners and operators of new or reconstructed non-emergency lean burn SI stationary engines with a site rating of greater than or equal to 250 brake HP located at a major source that are meeting the requirements of 40 CFR part 63, subpart ZZZZ, Table 2A do not have to comply with the CO emission standards of Table 1 of this subpart.

[c] The emission standards applicable to emergency engines between 25 HP and 130 HP are in terms of NO_X+HC.

[d] For purposes of this subpart, when calculating emissions of volatile organic compounds, emissions of formaldehyde should not be included.

TABLE 2 TO SUBPART JJJJ OF PART 60.—REQUIREMENTS FOR PERFORMANCE TESTS

[As stated in § 60.4244, you must comply with the following requirements for performance tests within 10 percent of 100 percent peak (or the highest achievable) load]

For each	Complying with the requirement to	You must	Using	According to the following requirements
1. Stationary SI internal combustion engine demonstrating compliance according to § 60.4244.	a. limit the concentration of NO_X in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A or ASTM Method D6522–00(2005)[a].	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. Determine the O_2 concentration of the stationary internal combustion engine exhaust at the sampling port location;	(2) Method 3, 3A, or 3B[b] of 40 CFR part 60, appendix A or ASTM Method D6522–00(2005)[a].	(b) Measurements to determine O_2 concentration must be made at the same time as the measurements for NO_X concentration.
		iii. Determine the exhaust flowrate of the stationary internal combustion engine exhaust;	(3) Method 2 or 19 of 40 CFR part 60.	

TABLE 2 TO SUBPART JJJJ OF PART 60.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in § 60.4244, you must comply with the following requirements for performance tests within 10 percent of 100 percent peak (or the highest achievable) load]

For each	Complying with the requirement to	You must	Using	According to the following requirements
		iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–03 (incorporated by reference, see § 60.17).	(c) Measurements to determine moisture must be made at the same time as the measurement for NO_X concentration.
		v. Measure NO_X at the exhaust of the stationary internal combustion engine.	(5) Method 7E of 40 CFR part 60, appendix A, Method D6522–00(2005) [a], Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–03 (incorporated by reference, see § 60.17).	(d) Results of this test consist of the average of the three 1-hour or longer runs.
	b. limit the concentration of CO in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A.	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. Determine the O_2 concentration of the stationary internal combustion engine exhaust at the sampling port location;	(2) Method 3, 3A, or 3Bb of 40 CFR part 60, appendix A or ASTM Method D6522–00(2005) [a].	(b) Measurements to determine O_2 concentration must be made at the same time as the measurements for CO concentration.
		iii. Determine the exhaust flowrate of the stationary internal combustion engine exhaust;	(3) Method 2 or 19 of 40 CFR part 60.	
		iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–03 (incorporated by reference, see § 60.17).	(c) Measurements to determine moisture must be made at the same time as the measurement for CO concentration.
		v. Measure CO at the exhaust of the stationary internal combustion engine.	(5) Method 10 of 40 CFR part 60, appendix A, ASTM Method D6522–00(2005) [a], Method 320 of 40 CFR part 63, appendix A, or ASTM D 6348–03 (incorporated by reference, see § 60.17).	(d) Results of this test consist of the average of the three 1-hour or longer runs.
	c. limit the concentration of VOC in the stationary SI internal combustion engine exhaust.	i. Select the sampling port location and the number of traverse points;	(1) Method 1 or 1A of 40 CFR part 60, Appendix A.	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. Determine the O_2 concentration of the stationary internal combustion engine exhaust at the sampling port location;	(2) Method 3, 3A, or 3B [b] of 40 CFR part 60, appendix A or ASTM Method D6522–00(2005) [a].	(b) Measurements to determine O_2 concentration must be made at the same time as the measurements for VOC concentration.
		iii. Determine the exhaust flowrate of the stationary internal combustion engine exhaust;	(3) Method 2 or 19 of 40 CFR part 60.	

TABLE 2 TO SUBPART JJJJ OF PART 60.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in § 60.4244, you must comply with the following requirements for performance tests within 10 percent of 100 percent peak (or the highest achievable) load]

For each	Complying with the requirement to	You must	Using	According to the following requirements
		iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and	(4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–03 (incorporated by reference, see § 60.17).	(c) Measurements to determine moisture must be made at the same time as the measurement for VOC concentration.
		v. Measure VOC at the exhaust of the stationary internal combustion engine.	(5) Methods 25A and 18 of 40 CFR part 60, appendix A, Method 25A with the use of a methane cutter as described in 40 CFR 1065.265, Method 18 or 40 CFR part 60, appendix A,[c d] Method 320 of 40 CFR part 63, appendix A, or ASTM D6348–03 (incorporated by reference, see § 60.17).	(d) Results of this test consist of the average of the three 1-hour or longer runs.

[a] ASTM D6522–00 is incorporated by reference; see 40 CFR 60.17. Also, you may petition the Administrator for approval to use alternative methods for portable analyzer.

[b] You may use ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses, for measuring the O_2 content of the exhaust gas as an alternative to EPA Method 3B.

[c] You may use EPA Method 18 of 40 CFR part 60, appendix A, provided that you conduct an adequate presurvey test prior to the emissions test, such as the one described in OTM 11 on EPA's Web site (*http://www.epa.gov/ttn/emc/prelim/otm11.pdf*).

[d] You may use ASTM D6420–99 (2004), Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry as an alternative to EPA Method 18 for measuring total nonmethane organic.

TABLE 3 TO SUBPART JJJJ OF PART 60.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART JJJJ

[As stated in § 60.4246, you must comply with the following applicable General Provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 60.1	General applicability of the General Provisions.	Yes.	
§ 60.2	Definitions	Yes	Additional terms defined in § 60.4248.
§ 60.3	Units and abbreviations	Yes.	
§ 60.4	Address	Yes.	
§ 60.5	Determination of construction or modification.	Yes.	
§ 60.6	Review of plans	Yes.	
§ 60.7	Notification and Recordkeeping	Yes	Except that § 60.7 only applies as specified in § 60.4245.
§ 60.8	Performance tests	Yes	Except that § 60.8 only applies to owners and operators who are subject to performance testing in subpart JJJJ.
§ 60.9	Availability of information	Yes.	
§ 60.10	State Authority	Yes.	
§ 60.11	Compliance with standards and maintenance requirements.	Yes	Requirements are specified in subpart JJJJ.
§ 60.12	Circumvention	Yes.	
§ 60.13	Monitoring requirements	No.	
§ 60.14	Modification	Yes.	
§ 60.15	Reconstruction	Yes.	
§ 60.16	Priority list	Yes.	
§ 60.17	Incorporations by reference	Yes.	
§ 60.18	General control device requirements.	No.	
§ 60.19	General notification and reporting requirements.	Yes.	

TABLE 4 TO SUBPART JJJJ OF PART 60.—APPLICABILITY OF MOBILE SOURCE PROVISIONS FOR MANUFACTURERS PARTICIPATING IN THE VOLUNTARY CERTIFICATION PROGRAM AND CERTIFYING STATIONARY SI ICE TO EMISSION STANDARDS IN TABLE 1 OF SUBPART JJJJ

[As stated in § 60.4247, you must comply with the following applicable mobile source provisions if you are a manufacturer participating in the voluntary certification program and certifying stationary SI ICE to emission standards in Table 1 of Subpart JJJJ]

Mobile source provisions citation	Subject of citation	Applies to subpart	Explanation
1048 Subpart A	Overview and Applicability	Yes.	
1048 Subpart B	Emission Standards and Related Requirements.	Yes	Except for the specific sections below.
1048.101	Exhaust Emission Standards	No.	
1048.105	Evaporative Emission Standards	No.	
1048.110	Diagnosing Malfunctions	No.	
1048.140	Certifying Blue Sky Series Engines.	No.	
1048.145	Interim Provisions	No.	
1048 Subpart C	Certifying Engine Families	Yes	Except for the specific sections below.
1048.205(b)	AECD reporting	Yes.	
1048.205(c)	OBD Requirements	No.	
1048.205(n)	Deterioration Factors	Yes	Except as indicated in 60.4247(c).
1048.205(p)(1)	Deterioration Factor Discussion	Yes.	
1048.205(p)(2)	Liquid Fuels as they require	No.	
1048.240(b)(c)(d)	Deterioration Factors	Yes.	
1048 Subpart D	Testing Production-Line Engines	Yes.	
1048 Subpart E	Testing In-Use Engines	No.	
1048 Subpart F	Test Procedures	Yes.	
1065.5(a)(4)	Raw sampling (refers reader back to the specific emissions regulation for guidance).	Yes.	
1048 Subpart G	Compliance Provisions	Yes.	
1048 Subpart H	Reserved.		
1048 Subpart I	Definitions and Other Reference Information.	Yes.	
1048 Appendix I and II		Yes.	
1065 (all subparts)	Engine Testing Procedures	Yes	Except for the specific section below.
1065.715	Test Fuel Specifications for Natural Gas.	No.	
1068 (all subparts)	General Compliance Provisions for Nonroad Programs.	Yes	Except for the specific sections below.
1068.245	Hardship Provisions for Unusual Circumstances.	No.	
1068.250	Hardship Provisions for Small-Volume Manufacturers.	No.	
1068.255	Hardship Provisions for Equipment Manufacturers and Secondary Engine Manufacturers.	No.	

PART 63—[AMENDED]

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

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

Subpart A—[AMENDED]

■ 5. Section 63.14 is amended by revising paragraph (b)(27) and adding paragraph (b)(64) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(27) ASTM D6522–00, 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,[1] IBR approved for § 63.9307(c)(2) and Table 5 to Subpart DDDDD of this part.

* * * * *

(64) ASTM D6522–00 (Reapproved 2005), 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,[1] IBR approved for Table 4 to Subpart ZZZZ of this part.

* * * * *

■ 6. Section 63.6580 is revised to read as follows:

§ 63.6580 What is the purpose of subpart ZZZZ?

Subpart ZZZZ establishes national emission limitations and operating limitations for hazardous air pollutants (HAP) emitted from stationary reciprocating internal combustion engines (RICE) located at major and area sources of HAP emissions. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and operating limitations.

■ 7. Section 63.6585 is amended by:

■ a. Revising the introductory text;

■ b. Adding paragraph (c);

■ c. Adding paragraph (d); and

■ d. Adding paragraph (e).

The revision and additions read as follows:

§ 63.6585 Am I subject to this subpart?

You are subject to this subpart if you own or operate a stationary RICE at a major or area source of HAP emissions, except if the stationary RICE is being tested at a stationary RICE test cell/stand.

* * * * *

(c) An area source of HAP emissions is a source that is not a major source.

(d) If you are an owner or operator of an area source subject to this subpart, your status as an entity subject to a standard or other requirements under this subpart does not subject you to the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart as applicable.

(e) If you are an owner or operator of a stationary RICE used for national security purposes, you may be eligible to request an exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C.

■ 8. Section 63.6590 is amended by revising paragraphs (a) and (b), and adding paragraph (c), to read as follows:

§ 63.6590 What parts of my plant does this subpart cover?

* * * * *

(a) *Affected source.* An affected source is any existing, new, or reconstructed stationary RICE located at a major or area source of HAP emissions, excluding stationary RICE being tested at a stationary RICE test cell/stand.

(1) *Existing stationary RICE.*

(i) For stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before December 19, 2002.

(ii) For stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iii) For stationary RICE located at an area source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iv) A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

(2) *New stationary RICE.* (i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(3) *Reconstructed stationary RICE.* (i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is reconstructed if you meet the definition of reconstruction in § 63.2 and reconstruction is commenced on or after June 12, 2006.

(b) *Stationary RICE subject to limited requirements.* (1) An affected source which meets either of the criteria in paragraph (b)(1)(i) through (ii) of this section does not have to meet the requirements of this subpart and of subpart A of this part except for the initial notification requirements of § 63.6645(h).

(i) The stationary RICE is a new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions; or

(ii) The stationary RICE is a new or reconstructed limited use stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions.

(2) A new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis must meet the initial notification requirements of § 63.6645(h) and the requirements of §§ 63.6625(c), 63.6650(g), and 63.6655(c). These stationary RICE do not have to meet the emission limitations and operating limitations of this subpart.

(3) A stationary RICE which is an existing spark ignition 4 stroke rich burn (4SRB) stationary RICE located at an area source, an existing spark ignition 4SRB stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source, an existing spark ignition 2 stroke lean burn (2SLB) stationary RICE, an existing spark ignition 4 stroke lean burn (4SLB) stationary RICE, an existing compression ignition (CI) stationary RICE, an existing emergency stationary RICE, an existing limited use stationary RICE, or an existing stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, does not have to meet the requirements of this subpart and of subpart A of this part. No initial notification is necessary.

(c) *Stationary RICE subject to Regulations under 40 CFR Part 60.* An affected source that is a new or reconstructed stationary RICE located at an area source, or is a new or reconstructed stationary RICE located at a major source of HAP emissions and is a spark ignition 2 stroke lean burn (2SLB) stationary RICE with a site rating of less than 500 brake HP, a spark ignition 4 stroke lean burn (4SLB) stationary RICE with a site rating of less than 250 brake HP, or a 4 stroke rich burn (4SRB) stationary RICE with a site rating of less than or equal to 500 brake HP, a stationary RICE with a site rating of less than or equal to 500 brake HP which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an emergency or limited use stationary RICE with a site rating of less than or equal to 500 brake HP, or a compression ignition (CI) stationary RICE with a site rating of less than or equal to 500 brake HP, must meet the requirements of this part by meeting the requirements of 40 CFR part 60 subpart IIII, for compression ignition engines or 40 CFR part 60 subpart JJJJ, for spark ignition engines. No further requirements apply for such engines under this part.

■ 9. Section 63.6595 is amended by revising paragraphs (a) and (b)(2) to read as follows:

§ 63.6595 When do I have to comply with this subpart?

(a) *Affected Sources.* (1) If you have an existing stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the

applicable emission limitations and operating limitations no later than June 15, 2007.

(2) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart no later than August 16, 2004.

(3) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions after August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(4) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions before January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart no later than January 18, 2008.

(5) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions after January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(6) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions before January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart no later than January 18, 2008.

(7) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions after January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(b)* * *

(2) Any stationary RICE for which construction or reconstruction is commenced before your area source becomes a major source of HAP must be in compliance with the provisions of this subpart that are applicable to RICE located at major sources within 3 years after your area source becomes a major source of HAP.

* * * * *

■ 10. Section 63.6600 is revised to read as follows:

§ 63.6600 What emission limitations and operating limitations must I meet if I own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions?

(a) If you own or operate an existing, new, or reconstructed spark ignition 4SRB stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the emission limitations in Table 1a to this subpart and the operating limitations in Table 1b to this subpart which apply to you.

(b) If you own or operate a new or reconstructed 2SLB stationary RICE with a site rating of more than 500 brake HP located at major source of HAP emissions, a new or reconstructed 4SLB stationary RICE with a site rating of more than 500 brake HP located at major source of HAP emissions, or a new or reconstructed CI stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the emission limitations in Table 2a to this subpart and the operating limitations in Table 2b to this subpart which apply to you.

(c) If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the emission limitations in Tables 1a and 2a to this subpart or operating limitations in Tables 1b and 2b to this subpart: an existing 2SLB stationary RICE, an existing 4SLB stationary RICE, or an existing CI stationary RICE; a stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis; an emergency stationary RICE; or a limited use stationary RICE.

■ 11. Section 63.6601 is added to read as follows:

§ 63.6601 What emission limitations must I meet if I own or operate a 4SLB stationary RICE with a site rating of greater than or equal to 250 brake HP and less than 500 brake HP located at a major source of HAP emissions?

If you own or operate a new or reconstructed 4SLB stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at major source of HAP emissions manufactured on or after January 1, 2008, you must comply with the emission limitations in Table 2a to this subpart and the operating limitations in Table 2b to this subpart which apply to you.

■ 12. Section 63.6610 is amended by:

■ a. Revising the section heading;

■ b. Adding introductory text; and

■ c. Revising paragraphs (a) through (c).

The revisions and additions read as follows:

§ 63.6610 By what date must I conduct the initial performance tests or other initial compliance demonstrations if I own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions?

If you own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions you are subject to the requirements of this section.

(a) You must conduct the initial performance test or other initial compliance demonstrations in Table 4 to this subpart that apply to you within 180 days after the compliance date that is specified for your stationary RICE in § 63.6595 and according to the provisions in § 63.7(a)(2).

(b) If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004 and own or operate stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must demonstrate initial compliance with either the proposed emission limitations or the promulgated emission limitations no later than February 10, 2005 or no later than 180 days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(c) If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004 and own or operate stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, and you chose to comply with the proposed emission limitations when demonstrating initial compliance, you must conduct a second performance test to demonstrate compliance with the promulgated emission limitations by December 13, 2007 or after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

* * * * *

■ 13. Section 63.6611 is added to read as follows:

§ 63.6611 By what date must I conduct the initial performance tests or other initial compliance demonstrations if I own or operate a 4SLB SI stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source of HAP emissions?

If you own or operate a new or reconstructed 4SLB stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source of HAP emissions, you must conduct an

initial performance test within 240 days after the compliance date that is specified for your stationary RICE in § 63.6595 and according to the provisions specified in Table 4 to this subpart, as appropriate.

■ 14. Section 63.6625 is amended by adding paragraph (d) to read as follows:

§ 63.6625 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(d) If you are operating a new or reconstructed emergency 4SLB stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source of HAP emissions, you must install a non-resettable hour meter prior to the startup of the engine.

■ 15. Section 63.6640 is amended by revising paragraph (e) to read as follows:

§ 63.6640 How do I demonstrate continuous compliance with the emission limitations and operating limitations?

* * * * *

(e) You must also report each instance in which you did not meet the requirements in Table 8 to this subpart that apply to you. If you own or operate any stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP), a stationary RICE located at an area source of HAP emissions, or any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in Table 8 to this subpart: An existing 2SLB stationary RICE, an existing 4SLB stationary RICE, an existing CI stationary RICE, an existing emergency stationary RICE, an existing limited use emergency stationary RICE, or an existing stationary RICE which fires landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis. If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in Table 8 to this subpart, except for the initial notification requirements: a new or reconstructed stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new or reconstructed emergency stationary RICE, or a new or reconstructed limited use stationary RICE.

■ 16. Section 63.6645 is revised to read as follows:

§ 63.6645 What notifications must I submit and when?

(a) If you own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions or a new or reconstructed 4SLB stationary RICE with a site rating of greater than or equal to 250 HP located at a major source of HAP emissions, you must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (f)(6), 63.9(b) through (e), and (g) and (h) that apply to you by the dates specified.

(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.

(c) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions on or after August 16, 2004, you must submit an Initial Notification not later than 120 days after you become subject to this subpart.

(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.

(e) If you start up your new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions on or after March 18, 2008 and you are required to submit an initial notification, you must submit an Initial Notification not later than 120 days after you become subject to this subpart.

(f) If you are required to submit an Initial Notification but are otherwise not affected by the requirements of this subpart, in accordance with § 63.6590(b), your notification should include the information in § 63.9(b)(2)(i) through (v), and a statement that your stationary RICE has no additional requirements and explain the basis of the exclusion (for example, that it operates exclusively as an emergency stationary RICE if it has a site rating of more than 500 brake HP located at a major source of HAP emissions).

(g) If you are required to conduct a performance test, you must submit a Notification of Intent to conduct a performance test at least 60 days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(h) If you are required to conduct a performance test or other initial compliance demonstration as specified in Tables 4 and 5 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration required in Table 5 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 day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required in Table 5 to this subpart that includes a performance test conducted according to the requirements in Table 3 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th day following the completion of the performance test according to § 63.10(d)(2).

■ 17. Section 63.6665 is revised to read as follows:

§ 63.6665 What parts of the General Provisions apply to me?

Table 8 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you. If you own or operate any stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP), a stationary RICE located at an area source of HAP emissions, or any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with any of the requirements of the General Provisions: An existing 2SLB RICE, an existing 4SLB stationary RICE, an existing CI stationary RICE, an existing stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an existing emergency stationary RICE, or an existing limited use stationary RICE. If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in the General Provisions except for the initial notification requirements: A new stationary RICE that combusts landfill gas or digester gas equivalent to 10

percent or more of the gross heat input on an annual basis, a new emergency stationary RICE, or a new limited use stationary RICE.

■ 18. Section 63.6675 is amended by:

■ a. Adding definitions of "Compression Ignition," "Gasoline," and "Spark ignition" in alphabetical order;

■ b. Removing the definitions for "Compression ignition engine" and "Spark ignition engine;" and

■ c. Revising the definitions of "Emergency stationary RICE" and "Natural gas;" to read as follows:

§ 63.6675 What definitions apply to this subpart?

* * * * *

Compression ignition means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

* * * * *

Emergency stationary RICE means any stationary RICE whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary RICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary RICE used to pump water in the case of fire or flood, etc. Stationary RICE used for peak shaving are not considered emergency stationary RICE. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines. Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by the manufacturer, the vendor, or the insurance company associated with the engine. Required testing of such units should be minimized, but there is no time limit on the use of emergency stationary RICE in emergency situations and for routine testing and maintenance. Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may also operate an additional 50 hours per year in non-emergency situations. Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed on or after June 12, 2006, must comply with requirements specified in 40 CFR 60.4243(d).

* * * * *

Gasoline means any fuel sold in any State for use in motor vehicles and motor vehicle engines, or nonroad or stationary engines, and commonly or commercially known or sold as gasoline.

* * * * *

Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality.

* * * * *

Spark ignition means relating to either: A gasoline-fueled engine; or any other type of engine a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for CI and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

* * * * *

■ 19. Table 1a to Subpart ZZZZ of part 63 is revised to read as follows:

TABLE 1A TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR EXISTING, NEW, AND RECONSTRUCTED SPARK IGNITION, 4SRB STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in § 63.6600, you must comply with the following emission limitations for existing, new and reconstructed 4SRB stationary RICE >500 HP located at a major source of HAP emissions at 100 percent load plus or minus 10 percent]

For each...	You must meet the following emission limitations...
1. 4SRB stationary RICE	a. reduce formaldehyde emissions by 76 percent or more. If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004, you may reduce formaldehyde emissions by 75 percent or more until June 15, 2007; or b. limit the concentration of formaldehyde in the stationary RICE exhaust 350 ppbvd or less at 15 percent O_2.

■ 20. Table 1b to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 1B TO SUBPART ZZZZ OF PART 63.—OPERATING LIMITATIONS FOR EXISTING, NEW, AND RECONSTRUCTED SPARK IGNITION, 4SRB STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6630 and 63.6640, you must comply with the following operating emission limitations for existing, new and reconstructed 4SRB stationary RICE >500 HP located at a major source of HAP emissions]

For each...	You must meet the following operating limitation...
1. 4SRB stationary RICE complying with the requirement to reduce formaldehyde emissions by 76 percent or more (or by 75 percent or more, if applicable) and using NSCR;. or	a. maintain your catalyst so that the pressure drop across the catalyst does not change by more than 2 inches of water at 100 percent load plus or minus 10 percent from the pressure drop across the catalyst measured during the initial performance test; and

TABLE 1B TO SUBPART ZZZZ OF PART 63.—OPERATING LIMITATIONS FOR EXISTING, NEW, AND RECONSTRUCTED SPARK IGNITION, 4SRB STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS—Continued

[As stated in §§ 63.6600, 63.6630 and 63.6640, you must comply with the following operating emission limitations for existing, new and reconstructed 4SRB stationary RICE >500 HP located at a major source of HAP emissions]

For each...	You must meet the following operating limitation...
4SRB stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust to 350 ppbvd or less at 15 percent O_2 and using NSCR..	b. maintain the temperature of your stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 750°F and less than or equal to 1250°F.
2. 4SRB stationary RICE complying with the requirement to reduce formaldehyde emissions by 76 percent or more (or by 75 percent or more, if applicable) and not using NSCR;.	Comply with any operating limitations approved by the Administrator.
or	
4SRB stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust to 350 ppbvd or less at 15 percent O_2 and not using NSCR..	

■ 21. Table 2a to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 2A TO SUBPART ZZZZ OF PART 63.—EMISSION LIMITATIONS FOR NEW AND RECONSTRUCTED 2SLB AND COMPRESSION IGNITION STATIONARY RICE >500 HP AND 4SLB STATIONARY RICE ≥250 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600 and 63.6601, you must comply with the following emission limitations for new and reconstructed lean burn and new and reconstructed compression ignition stationary RICE at 100 percent load plus or minus 10 percent]

For each...	You must meet the following emission limitation...
1. 2SLB stationary RICE	a. reduce CO emissions by 58 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 12 ppmvd or less at 15 percent O_2. If you commenced construction or reconstruction between December 19, 2002 and June 15, 2004, you may limit concentration of formaldehyde to 17 ppmvd or less at 15 percent O_2 until June 15, 2007.
2. 4SLB stationary RICE	a. reduce CO emissions by 93 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 14 ppmvd or less at 15 percent O_2.
3. CI stationary RICE	a. reduce CO emissions by 70 percent or more; or b. limit concentration of formaldehyde in the stationary RICE exhaust to 580 ppbvd or less at 15 percent O_2.

■ 22. Table 2b to Subpart ZZZZ of Part 63 is revised to read as follows:

TABLE 2B TO SUBPART ZZZZ OF PART 63.—OPERATING LIMITATIONS FOR NEW AND RECONSTRUCTED 2SLB AND COMPRESSION IGNITION STATIONARY RICE >500 HP AND 4SLB BURN STATIONARY RICE ≥250 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6601, 63.6630, and 63.6640, you must comply with the following operating limitations for new and reconstructed lean burn and new and reconstructed compression ignition stationary]

For each...	You must meet the following operating limitation...
1. 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to reduce CO emissions and using an oxidation catalyst; or 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust and using an oxidation catalyst.	a. maintain your catalyst so that the pressure drop across the catalyst does not change by more than 2 inches of water at 100 percent load plus or minus 10 percent from the pressure drop across the catalyst that was measured during the initial performance test; and b. maintain the temperature of your stationary RICE exhaust so that the catalyst inlet temperature is greater than or equal to 450 °F and less than or equal to 1350 °F.
2. 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to reduce CO emissions and not using an oxidation catalyst; or 2SLB and 4SLB stationary RICE and CI stationary RICE complying with the requirement to limit the concentration of formaldehyde in the stationary RICE exhaust and not using an oxidation catalyst.	Comply with any operating limitations approved by the Administrator.

■ 23. Table 4 to subpart ZZZZ of part 63 is revised to read as follows:

TABLE 4 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

[As stated in §§ 63.6610, 63.6611, 63.6620, and 63.6640, you must comply with the following requirements for performance tests for stationary RICE]

For each . . .	Complying with the requirement to . . .	You must . . .	Using . . .	According to the following requirements . . .
1. 2SLB, 4SLB, and CI stationary RICE.	a. Reduce CO emissions ..	i. Measure the O_2 at the inlet and outlet of the control device; and.	(1) Portable CO and O_2 analyzer.	(a) Using ASTM D6522–00 (2005) [a] (incorporated by reference, see § 63.14). Measurements to determine O_2 must be made at the same time as the measurements for CO concentration.
		ii. Measure the CO at the inlet and the outlet of the control device.	(1) Portable CO and O_2 analyzer.	(a) Using ASTM D6522–00 (2005) [a] (incorporated by reference, see § 63.14) or Method 10 of 40 CFR, appendix A. The CO concentration must be at 15 percent O_2, dry basis.
2. 4SRB stationary RICE ..	a. Reduce formaldehyde emissions.	i. Select the sampling port location and the number of traverse points; and.	(1) Method 1 or 1A of 40 CFR part 60, appendix A § 63.7(d)(1)(i).	(a) Sampling sites must be located at the inlet and outlet of the control device.
		ii. Measure O_2 at the inlet and outlet of the control device; and.	(1) Method 3 or 3A or 3B of 40 CFR part 60, appendix A, or ASTM Method D6522–00 (2005)..	(a) Measurements to determine O_2 concentration must be made at the same time as the measurements for formaldehyde concentration.
		iii. Measure moisture content at the inlet and outlet of the control device; and.	(1) Method 4 of 40 CFR part 60, appendix A, or Test Method 320 of 40 CFR part 63, appendix A, or ASTM D 6348–03.	(a) Measurements to determine moisture content must be made at the same time and location as the measurements for formaldehyde concentration.
		iv. Measure formaldehyde at the inlet and the outlet of the control device.	(1) Method 320 or 323 of 40 CFR part 63, appendix A; or ASTM D6348–03 [b], provided in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R must be greater than or equal to 70 and less than or equal to 130.	(a) Formaldehyde concentration must be at 15 percent O_2, dry basis. Results of this test consist of the average of the three 1-hour or longer runs.
3. Stationary RICE	a. Limit the concentration of formaldehyde in the stationary RICE exhaust.	i. Select the sampling port location and the number of traverse points; and.	(1) Method 1 or 1A of 40 CFR part 60, appendix A § 63.7(d)(1)(i).	(a) If using a control device, the sampling site must be located at the outlet of the control device.
		ii. Determine the O_2 concentration of the stationary RICE exhaust at the sampling port location; and.	(1) Method 3 or 3A or 3B of 40 CFR part 60, appendix A, or ASTM Method D6522–00 (2005).	(a) Measurements to determine O_2 concentration must be made at the same time and location as the measurements for formaldehyde concentration.
		iii. Measure moisture content of the stationary RICE exhaust at the sampling port location; and.	(1) Method 4 of 40 CFR part 60, appendix A, or Test Method 320 of 40 CFR part 63, appendix A, or ASTM D 6348–03.	(a) Measurements to determine moisture content must be made at the same time and location as the measurements for formaldehyde concentration.

TABLE 4 TO SUBPART ZZZZ OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in §§ 63.6610, 63.6611, 63.6620, and 63.6640, you must comply with the following requirements for performance tests for stationary RICE]

For each . . .	Complying with the requirement to . . .	You must . . .	Using . . .	According to the following requirements . . .
		iv. Measure formaldehyde at the exhaust of the stationary RICE.	(1) Method 320 or 323 of 40 CFR part 63, appendix A; or ASTM D6348–03[b], provided in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R must be greater than or equal to 70 and less than or equal to 130.	(a) Formaldehyde concentration must be at 15 percent O_2, dry basis. Results of this test consist of the average of the three 1-hour or longer runs.

[a] You may also use Methods 3A and 10 as options to ASTM–D6522–00 (2005). You may obtain a copy of ASTM–D6522–00 (2005) from at least one of the following addresses: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.

[b] You may obtain a copy of ASTM–D6348–03 from at least one of the following addresses: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.

■ 24. Table 8 to subpart ZZZZ of part 63 is revised to read as follows:

TABLE 8 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.1	General applicability of the General Provisions.	Yes.	
§ 63.2	Definitions	Yes	Additional terms defined in § 63.6675.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities and circumvention.	Yes.	
§ 63.5	Construction and 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 sources.	Yes.	
§ 63.6(c)(1)–(2)	Compliance dates for existing sources.	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 36.6(c)(5)	Compliance dates for existing area sources that become major sources.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation and maintenance	Yes.	
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, shutdown, and malfunction plan.	Yes.	
§ 63.6(f)(1)	Applicability of standards except during startup shutdown malfunction (SSM).	Yes.	
§ 63.6(f)(2)	Methods for determining compliance.	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternate standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards.	No	Subpart ZZZZ does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria.	Yes.	
§ 63.6(j)	Presidential compliance exemption.	Yes.	

TABLE 8 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart ZZZZ contains performance test dates at §§ 63.6610 and 63.6611.
§ 63.7(a)(3)	CAA section 114 authority	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.	
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart ZZZZ specifies test methods at § 63.6620.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements.	Yes	Subpart ZZZZ contains specific requirements for monitoring at § 63.6625.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring for control devices	No.	
§ 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.	
§ 63.8(c)(1)(ii)	SSM not in Startup Shutdown Malfunction Plan.	Yes.	
§ 63.8(c)(1)(iii)	Compliance with operation and maintenance requirements.	Yes.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No	Subpart ZZZZ does not require COMS.
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart ZZZZ does not require COMS.
§ 63.8(d)	CMS quality control	Yes.	
§ 63.8(e)	CMS performance evaluation	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	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§ 63.6635 and 63.6640.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	
§ 63.9(b)(1)–(5)	Initial notifications	Yes	Except that § 63.9(b)(3) is reserved.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emission (VE)/opacity test.	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(1)	Notification of performance evaluation.	Yes.	
§ 63.9(g)(2)	Notification of use of COMS data	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(3)	Notification that criterion for alternative to RATA is exceeded.	Yes	If alternative is in use.

TABLE 8 TO SUBPART ZZZZ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.9(h)(1)–(6)	Notification of compliance status ..	Yes	Except that notifications for sources using a CEMS are due 30 days after completion of performance evaluations. § 63.9(h)(4) is reserved.
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information ...	Yes.	
§ 63.10(a)	Administrative provisions for record keeping/reporting.	Yes.	
§ 63.10(b)(1)	Record retention	Yes.	
§ 63.10(b)(2)(i)–(v)	Records related to SSM	Yes.	
§ 63.10(b)(2)(vi)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA.	Yes	For CO standard if using RATA alternative.
§ 63.10(b)(2)(xiv)	Records of supporting documentation.	Yes.	
§ 63.10(b)(3)	Records of applicability determination.	Yes.	
§ 63.10(c)	Additional records for sources using CEMS.	Yes	Except that § 63.10(c)(2)–(4) and (9) are reserved.
§ 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	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.10(d)(4)	Progress reports	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes.	
§ 63.10(e)(1) and (2)(i)	Additional CMS reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	Subpart ZZZZ does not require COMS.
§ 63.10(e)(3)	Excess emission and parameter exceedances reports.	Yes	Except that § 63.10(e)(3)(i)(C) is reserved.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart ZZZZ does not require COMS.
§ 63.10(f)	Waiver for recordkeeping/reporting.	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

PART 85—[AMENDED]

■ 25. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 26. Section 85.2401 is amended by revising paragraph (a)(13) to read as follows:

§ 85.2401 To whom do these requirements apply?

(a) * * *

(13) Stationary internal combustion engines (See 40 CFR part 60, subparts IIII and JJJJ).

* * * * *

■ 27. Section 85.2403 is amended by revising paragraph (b)(11) to read as follows:

§ 85.2403 What definitions apply to this subpart?

* * * * *

(b) * * *

(11) 40 CFR part 60, subparts IIII and JJJJ.

■ 28. Section 85.2405 is amended by adding paragraph (f) to read as follows:

§ 85.2405 How much are the fees?

* * * * *

(f) Fees for stationary SI internal combustion engine certificate requests shall be calculated in the same manner as for NR SI certificate. Fees for certificate requests where the certificate would apply to stationary and mobile engines shall be calculated in the same manner as fees for the certificate requests for the applicable mobile source engines.

PART 90—[AMENDED]

■ 29. The authority citation for part 90 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 30. Section 90.1 is amended by adding paragraph (h) to read as follows:

§ 90.1 Applicability.

* * * * *

(h) This part applies as specified in 40 CFR part 60 subpart JJJJ, to spark-ignition engines subject to the standards of 40 CFR part 60, subpart JJJJ.

■ 31. Section 90.107 is amended by adding paragraph (d)(12) to read as follows:

§ 90.107 Application for certificate.

* * * * *

(d) * * *

(12) A statement indicating whether the engine family contains only nonroad engines, only stationary engines, or both.

* * * * *

■ 32. Section 90.114 is amended by revising paragraph (c)(7) and adding paragraph (g) to read as follows:

§ 90.114 Requirement of certification-engine information label.

* * * * *

(c) * * *

(7) The statement "THIS ENGINE CONFORMS TO U.S. EPA REGS FOR [MODEL YEAR].";

* * * * *

(g) Stationary engines required by 40 CFR part 60, subpart JJJJ, to meet the requirements of this part 90 must meet the labeling requirements of 40 CFR 60.4242.

■ 33. Section 90.201 is revised to read as follows:

§ 90.201 Applicability.

The requirements of this subpart C are applicable to all Phase 2 spark-ignition engines subject to the provisions of subpart A of this part except as provided in § 90.103(a). These provisions are not applicable to any Phase 1 engines. Participation in the averaging, banking and trading program is voluntary, but if a manufacturer elects to participate, it must do so in compliance with the regulations set forth in this subpart. The provisions of this subpart are applicable for HC+NO_X (NMHC+NO_X) emissions but not for CO emissions. To the extent specified in 40 CFR part 60, subpart JJJJ, stationary engines certified under this part and subject to the standards of 40 CFR part 60, subpart JJJJ, may participate in the averaging, banking, and trading program described in this subpart.

PART 1048—[AMENDED]

■ 34. The authority citation for part 1048 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 35. Section 1048.1 is amended by revising paragraph (c) to read as follows:

§ 1048.1 Does this part apply to me?

* * * * *

(c) The definition of nonroad engine in 40 CFR 1068.30 excludes certain engines used in stationary applications. These engines may be required by 40 CFR part 60, subpart JJJJ, to comply with some of the provisions of this part 1048; otherwise, these engines are only required to comply with the requirements in § 1048.20. In addition, the prohibitions in 40 CFR 1068.101 restrict the use of stationary engines for nonstationary purposes unless they are certified under this part 1048 to the same standards that would apply to nonroad engines for the same model year.

* * * * *

■ 36. Section 1048.20 is amended by revising paragraph (a) introductory text, revising paragraph (b)(4) and adding paragraph (c) to read as follows:

§ 1048.20 What requirements from this part apply to excluded stationary engines?

(a) You must add a permanent label or tag to each new engine you produce or import that is excluded under § 1048.1(c) as a stationary engine and is not required by 40 CFR part 60, subpart JJJJ, to meet the standards and other requirements of this part 1048 that are equivalent to the requirements applicable to nonroad SI engines for the same model year. To meet labeling requirements, you must do the following things:

* * * * *

(b) * * *

(4) State: "THIS ENGINE IS EXCLUDED FROM THE REQUIREMENTS OF 40 CFR PART 1048 AS A "STATIONARY ENGINE" AND THE OWNER/OPERATOR MUST COMPLY WITH THE REQUIREMENTS OF 40 CFR PART 60. INSTALLING OR USING THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.".

(c) Stationary engines required by 40 CFR part 60, subpart JJJJ, to meet the requirements of this part 1048 must meet the labeling requirements of 40 CFR 60.4242.

■ 37. Section 1048.101 is amended by adding paragraph (a)(4) to read as follows:

§ 1048.101 What exhaust emission standards must my engines meet?

* * * * *

(a) * * *

(4) For constant-speed engines, the emission standards do not apply for transient testing if you do both of the following things:

(i) Demonstrate that the specified transient duty-cycle is not representative of the way your engines will operate in use.

(ii) Demonstrate that the engine's emission controls will function properly to control emissions during transient operation in use. In most cases, you may do this by showing that you use the same controls as a similar variable-speed engine that is certified as complying with the emission standards during transient testing.

* * * * *

■ 38. Section 1048.205 is amended by revising paragraphs (b) and (w) to read as follows:

§ 1048.205 What must I include in my application?

* * * * *

(b) Explain how the emission control systems operate. Describe the evaporative emission controls, if applicable. Also describe in detail all system components for controlling exhaust emissions, including all auxiliary emission control devices (AECDs) and all fuel-system components you will install on any production or test engine. Identify the part number of each component you describe. For this paragraph (b), treat as separate AECDs any devices that modulate or activate differently from each other. Include sufficient detail to allow us to evaluate whether the AECDs are consistent with the defeat device prohibition of § 1048.115.

* * * * *

(w) State whether your certification is intended to include engines used in stationary applications. Also state whether your certification is limited for certain engines. If this is the case, describe how you will prevent use of these engines in applications for which they are not certified. This applies for engines such as the following:

(1) Constant-speed engines.

(2) Variable-speed engines.

* * * * *

PART 1065—[AMENDED]

■ 39. The authority citation for part 1065 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 40. Section 1065.1 is amended by adding paragraph (a)(6) to read as follows:

§ 1065.1 Applicability.

(a) * * *

(6) Stationary spark-ignition engines certified using provisions in 40 CFR part 1048, as indicated under 40 CFR part 60, subpart JJJJ, the standard-setting part for these engines.

* * * * *

PART 1068—[AMENDED]

■ 41. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 42. Section 1068.1 is amended by adding paragraph (a)(5) to read as follows:

§ 1068.1 Does this part apply to me?

(a) * * *

(5) Stationary spark-ignition engines certified using provisions in 40 CFR part

1048, as indicated under 40 CFR part 60, subpart JJJJ.

* * * * *

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safety or health standard may constitute a separate offense. The amount of the proposed civil penalty shall be based on the criteria set forth in sections 105(b) and 110(i) of the Mine Act. These criteria are:

* * * * *

(g) * * *

TABLE XIV.—PENALTY CONVERSION TABLE

Points	Penalty ($)
60 or fewer	112
61	121
62	131
63	142
64	154
65	167
66	181
67	196
68	212
69	230
70	249
71	270
72	293
73	317
74	343
75	372
76	403
77	436
78	473
79	512
80	555
81	601
82	651
83	705
84	764
85	828
86	897
87	971
88	1,052
89	1,140
90	1,235
91	1,337
92	1,449
93	1,569
94	1,700
95	1,842
96	1,995
97	2,161
98	2,341
99	2,536
100	2,748
101	2,976
102	3,224
103	3,493
104	3,784
105	4,099
106	4,440
107	4,810
108	5,211
109	5,645
110	6,115
111	6,624
112	7,176
113	7,774
114	8,421
115	9,122
116	9,882
117	10,705
118	11,597
119	12,563
120	13,609

TABLE XIV.—PENALTY CONVERSION TABLE—Continued

Points	Penalty ($)
121	14,743
122	15,971
123	17,301
124	18,742
125	20,302
126	21,993
127	23,825
128	25,810
129	27,959
130	30,288
131	32,810
132	35,543
133	38,503
134	41,574
135	44,645
136	47,716
137	50,787
138	53,858
139	56,929
140	60,000
141	63,071
142	66,142
143	69,213
144 or more	70,000

* * * * *

■ 3. Section 100.5 is amended by revising paragraphs (c) and (d) to read as follows:

§ 100.5 Determination of penalty amount; special assessment.

* * * * *

(c) Any operator who fails to correct a violation for which a citation has been issued under Section 104(a) of the Mine Act within the period permitted for its correction may be assessed a civil penalty of not more than $7,500 for each day during which such failure or violation continues.

(d) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty of not more than $375 for each occurrence of such violation.

* * * * *

[FR Doc. E8–2226 Filed 2–6–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0034; FRL–8522–4]

RIN 2060–AM85

National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing amendments to the national emission standards for hazardous air pollutants (NESHAP) for iron and steel foundries. These final amendments add alternative compliance options for cupolas at existing foundries and clarify several provisions to increase operational flexibility and improve understanding of the final rule requirements.

DATES: These final amendments are effective on February 7, 2008. The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of February 7, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0034. All documents in the docket are listed in the Federal Docket Management System index 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 form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Docket, EPA/DC, EPA West, Room 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5289; fax number: (919) 541–3207; e-mail address: *mulrine.phil@epa.gov*.

SUPPLEMENTARY INFORMATION:

Outline

The information presented in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The regulated categories and entities potentially affected by these final amendments include:

Category	NAICS code[1]	Examples of regulated entities
Industry	331511	Iron foundries, Iron and steel plants. Automotive and large equipment manufacturers.
	331512	Steel investment foundries.
	331513	Steel foundries (except investment).
Federal government		Not affected.
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in 40 CFR 63.7682 of subpart EEEEE (NESHAP for Iron and Steel Foundries). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 7, 2008. Under section 307(d)(7)(B) of the CAA, only an objection to these final amendments 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 established by these final amendments may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

II. Background Information

The NESHAP for iron and steel foundries (40 CFR part 63, subpart EEEEE) establishes emissions limitations and work practice requirements for the control of hazardous air pollutants (HAP) from foundry operations. The NESHAP implements section 112(d) of the CAA by requiring all iron and steel foundries that are major sources of HAP to meet standards reflecting application of the maximum achievable control technology (MACT). The compliance date for most of the subpart EEEEE requirements was April 23, 2007.

After publication of the NESHAP (69 FR 21906, April 22, 2004), the American Foundry Society, the Alliance of Automobile Manufacturers, and the Steel Founders' Society of America filed petitions for reconsideration of the final rule. The American Foundry Society and the Steel Founders' Society of America also filed petitions for review of the final rule (*Steel Founders' Society of America* v. *U.S. EPA*, No. 04–1190, DC Cir.) and *American Foundry Society* v. *U.S. EPA*, No. 04–1191, DC Cir.). The concerns raised by the petitioners regarding the work practice standards for scrap management have been resolved by rule amendments issued on May 20, 2005 (97 FR 29400). The Steel Founders' Society of America petitioned the court for voluntary dismissal of their petition for review on March 23, 2006, and the court granted that petition on May 2, 2006. Thus, the only challenge to the NESHAP remaining before the court is the American Foundry Society petition for review, No. 04–1191.

In accordance with section 113(g) of the CAA, EPA published a notice of a proposed settlement agreement between EPA and the petitioner (72 FR 1986, January 17, 2007) and provided a 30-day comment period which ended on February 16, 2007. The settlement agreement became final on March 9, 2007. On April 17, 2007 (72 FR 19150), we proposed rule amendments which addressed the need for alternative emissions limits for cupolas at existing foundries and clarification of other rule requirements as set forth in Attachment A to the settlement agreement. The proposed amendments also included corrections to a few minor editorial errors.

These final amendments are materially the same as the proposed amendments. EPA expects these final amendments to resolve the remaining issues raised by the petitioner.

III. Summary of Final Amendments and Changes Made Since Proposal

These final amendments include two changes since proposal. The first change is in the wording used to describe the emission limit for the new compliance option for cupola melting furnaces; instead of abbreviating the limit as lb/

ton of particulate matter (PM) (or total metal HAP), we expressly state the limit as pound of PM (or total metal HAP) per ton of metal charged. We intend this as a clarification, not as a substantive change from what we proposed. We are also correcting a publication error in the definition of "deviation" as published at 72 FR 19164. All other final amendments are exactly as proposed.

A. Emissions Limitations

1. New Compliance Options for Cupola Metal Melting Furnaces

These final amendments add a new compliance option to § 73.7690(a)(2) of the NESHAP. The new alternative emissions limits for cupola metal melting furnaces at existing iron and steel foundries allows the use of control technologies that are designed on a mass removal basis rather than an outlet concentration basis. The levels of the new alternative emissions limits are the same as proposed: 0.10 pound of PM per ton of metal charged or 0.008 pound of total HAP per ton of metal charged. In response to public comment, we have revised the manner in which the emissions limits are stated in the rule for clarity. We have also revised associated compliance provisions in §§ 63.7732(b)(6) and (c)(6), 63.7734(a)(2)(iii) and (iv), and 63.7743(a)(2)(iii) and (iv) to refer to the new alternative limits in terms of pounds of PM per ton (lb/ton) of metal charged or pounds of total metal HAP per ton of metal charged instead of lb/ton of PM or lb/ton of total metal HAP, respectively.

2. Fugitive Emissions Opacity Limit

These final amendments specify that the opacity limitations apply only to buildings that house iron and steel foundry emissions sources. If nonfoundry operations are housed in the same building as the foundry operations, the foundry must comply with the opacity limits for that building.

3. Triethylamine Emissions Limit

These final amendments replace the reference to test conditions ("as determined when scrubbing with fresh acid solution") with the phrase "according to the performance test procedures in § 63.7732(g)" since § 63.7732(g) contains the requirement to conduct the test when scrubbing with fresh acid solution.

B. Work Practice Standards

1. Capture and Collection Systems

These final amendments delete the word "standard" from 40 CFR 63.7690(b)(1) to clarify that capture and collection systems are required for emissions sources subject to an emissions limit but not for emissions sources subject to work practice standards.

2. Scrap Management

These final amendments specify that "chlorinated" plastics are to be removed from the scrap material (instead of all plastic). These final amendments also revise the requirement in 40 CFR 63.7700(c)(2) for the owner or operator to obtain and maintain onsite a copy of the procedures used by the scrap supplier for either removing accessible mercury switches or for purchasing automobile bodies that have had the switches removed. These final amendments include an alternative procedure that allows the plant to document their attempts to obtain a copy of the procedures from the scrap suppliers servicing their area. We note, however, that under 40 CFR 63.7700(c)(2) the materials acquisition program must specify that the scrap supplier remove accessible mercury switches from the trunks and hoods of any automotive bodies contained in the scrap in addition to accessible lead components such as batteries and wheel weights. It is incumbent on the foundry owner or operator to communicate these specifications to their scrap suppliers.

3. Scrap Preheaters

The existing rule requires the owner or operator to install, operate, and maintain a gas-fired preheater according to 40 CFR 63.7700(e)(1) or charge only certain materials according to 40 CFR 63.7700(e)(2). These final amendments revise the language of § 63.7700(e)(1) to clarify that foundries are not required to install gas-fired preheaters when not necessary for foundry operations. It was not our intent to mandate installation of preheaters, but rather to establish requirements for those existing facilities that use scrap preheaters in lieu of selecting the option in 40 CFR 63.7700(e)(2). Therefore, these final amendments clarify § 63.7700(e)(1) by deleting the word "install". Instead, these final amendments require the owner or operator to operate and maintain a gas-fired preheater where the flame directly contacts the scrap charged.

C. Operation and Maintenance Requirements

These final amendments clarify that the requirement in 40 CFR 63.7700(e)(2) applies to each capture and collection system and control device for an emissions source subject to a PM, metal HAP, triethylamine (TEA), or volatile organic hazardous pollutants (VOHAP) emissions limit in 40 CFR 63.7690(a).

D. Compliance With Alternative Emissions Limits

The existing NESHAP establishes PM emissions limits and alternative emissions limits expressed in total metal HAP for cupolas and other foundry processes. These final amendments clarify our original intent to allow foundries to demonstrate compliance with any of the applicable alternative emissions limitations that are provided for a specific emissions source. When multiple alternative emissions limitations are provided for a specific emissions source, iron and steel foundries can demonstrate initial compliance with any of the alternative limits; they are not required to comply with all of the alternative emissions limits at any one time. These final amendments also clarify a facility's ability to change their selected compliance alternative and the procedures needed to effect that change. However, regarding continuous compliance, the facility is expected to continuously comply with the alternative emissions limit that was selected as their compliance option as demonstrated in their most recent performance test. The facility may choose to alter their selected alternative but must continue to comply with the previously selected alternative until they successfully demonstrate compliance with the new alternative emissions limitation.

We are also finalizing requirements for determining initial compliance for cupola melting furnaces at existing iron and steel foundries that are subject to the new mass rate emissions limit. The final amendments to 40 CFR 63.7732(b) and (c) include new equations for determining PM or total metal HAP emissions from cupolas in the lb/ton of metal charged format. Other amendments to 40 CFR 63.7732(b) and (c) clarify test methods source sampling requirements.

1. Single Performance Test for Control Devices Serving Multiple Units

Section 63.7734 of the NESHAP requires iron and steel foundries to demonstrate initial compliance with PM emissions limits by conducting a performance test for each process unit according to the procedures in 40 CFR 63.7732. One petitioner pointed out that a common emissions control system may serve two similar or identical cupolas or serve multiple furnaces or process units. According to the petitioner, a requirement for separate tests of the control device while the

emissions sources are operating is redundant and imposes unnecessary costs because the control device should perform the same on each identical furnace. These final amendments resolve the petitioner's concern by adding a new provision to the performance test requirements. As proposed, the final amendment requires foundries to submit a site-specific test plan for the situation described by the petitioner or other situations not expressly considered in 40 CFR 63.7734. The site-specific test plan, which is subject to approval by the Administrator, will explain the procedures that would be followed during the test, such as operation of the unit or units at the maximum operating condition of the control system. The Administrator or delegated authority will determine on a case-by-case basis if one representative furnace/control device configuration may be tested.

2. Sampling Procedure for Electric Arc Furnaces, Electric Induction Furnaces, and Scrap Preheaters

As proposed, we are clarifying the sampling instructions in 40 CFR 63.7732(c)(4) and (5) to state that the initial compliance demonstrations for electric arc metal melting furnaces, electric induction metal melting furnaces, and scrap preheaters must be conducted under normal production conditions. These final amendments require sampling during normal operating conditions, which may include charging, melting, alloying, refining, slagging, and tapping (for a furnace) or charging, heating, and discharging (for a scrap preheater).

3. Minimum Sampling Volume for Total Metal HAP

As proposed, these final amendments remove the requirement in 40 CFR 63.7732(c)(2) for a minimum sample volume for test runs by EPA Method 29 (40 CFR part 60, appendix A) because the method already includes such a requirement.

4. Opacity Test

Section 63.7732(d) of the existing NESHAP establishes the requirements for opacity tests. These final amendments instruct the certified observer how to take opacity readings by Method 9 (40 CFR part 60, appendix A) for a building that has many openings. As proposed, these final amendments allow the observer to take readings from a limited number of openings or vents that appear to have the highest opacities instead of making observations for each opening or vent from the building or structure. Alternatively, a single observation for the entire building is allowed if the fugitive release points afford such an observation. These final amendments also revise the language of 40 CFR 63.7732(d)(2) to clarify that opacity tests are to be conducted during PM performance tests, but that PM performance tests are not required to occur during the semiannual opacity tests.

5. Alternative Test Method

Section 63.7732(g)(v) of the existing NESHAP requires the use of EPA Method 18 (40 CFR part 60, appendix A) to determine the TEA concentration of gases from the TEA cold box mold or core-making line. As proposed, these final amendments allow NIOSH Method 2010, "Amines, Aliphatic" (incorporated by reference—see § 63.14) as an alternative to EPA Method 18 (40 CFR part 60, appendix A) provided the performance requirements outlined in section 13.1 of EPA Method 18 are satisfied. Method 2010 is included in the *NIOSH Manual of Analytical Methods* (4th edition, NIOSH Publication 94–113, August 1994). The manual is available from the Government Printing Office and the National Technical Information Service (NTIS), NTIS publication No. PB95154191. The NIOSH method may also be found on the NIOSH Web site at the following address: *www.cdc.gov/niosh/nmam/method-4000.html.*

6. Procedures for Establishing Operating Limits

As proposed, these final amendments clarify the procedures for establishing control device operating limits in 40 CFR 63.7733(b) through (d) by deleting the reference to the 3-hour average from the test procedures. These final amendments specify that the owner or operator is to compute and record the average operating parameter value for each valid sampling run in which the applicable limit is met.

7. Repeat Performance Tests

As proposed, these final amendments revise the requirements for repeat performance in 40 CFR 63.7731(a) to clarify that demonstrating compliance by one method does not preclude a plant from demonstrating compliance using an alternative method at a later date. A plant may elect to demonstrate compliance with an alternative emissions limit during the repeat performance tests conducted at least every 5 years. Furthermore, a plant may elect to conduct a performance test earlier than 5 years in order to change an operating limit or to demonstrate compliance with a different alternative emissions limit. A test conducted for the purpose of changing operating limits is subject to notification requirements in 40 CFR 63.7750(d).

E. Monitoring Requirements

1. Baghouse Monitoring Requirements

Section 63.7740(b) of the existing NESHAP requires a bag leak detection system for each negative pressure baghouse and for each positive pressure baghouse equipped with a stack where the baghouse is applied to meet any PM or total metal HAP emissions limitation in subpart EEEEE. This provision also requires inspection of each baghouse according to the requirements in 40 CFR 63.7740(b)(1) through (8). As proposed, these final amendments include monitoring requirements for the visual inspection of positive pressure baghouses that are not equipped with a stack. As proposed, these final amendments to 40 CFR 63.7740(b) clarify the text to ensure that the requirements in this paragraph for installing and using a bag leak detection system apply only to negative pressure baghouses and positive pressure baghouses equipped with a stack. The inspection requirements are separated and placed in a new paragraph (c) and clarified to state that the inspection requirements apply to each baghouse regardless of type. These final amendments to 40 CFR 63.7740 also renumber the paragraphs which follow new paragraph (c). Similar clarifications are made to the requirements for demonstrating continuous compliance in 40 CFR 63.7743(c).

2. Demonstration of Initial Compliance With Bag Leak Detection System Operation and Maintenance Requirements

Section 63.7736(c) of the existing NESHAP instructs the owner or operator how to demonstrate initial compliance with the requirements for bag leak detection systems. Under 40 CFR 63.7736(c)(1), the owner or operator must submit the bag leak detection system monitoring plan to the Administrator for approval according to the requirements in 40 CFR 63.7710(b). As proposed, these final amendments to 40 CFR 63.7736(c)(1) revise this provision to clarify that submission of the monitoring plan independent of the operation and maintenance plan is not necessary. Our intent is to include the bag leak detection system information in the operation and maintenance plan to streamline the approval process and avoid the administrative costs associated with a separate submission.

In addition, having one integrated plan will provide a centralized reference tool for control device operation and maintenance requirements.

3. Installation, Operation, and Maintenance Requirements for Monitors

As proposed, these final amendments revise the requirements for operation and maintenance of continuous parameter monitoring systems to more clearly describe the inspection requirements. Under the operation and maintenance requirements for flow measurement devices in 40 CFR 63.7741(a)(1)(iv), the owner or operator must perform monthly inspections of all flow sensor components for integrity, all electrical connections for continuity, and all mechanical connections for leakage. These final amendments change this provision to require a monthly visual inspection of all components, including all electrical and mechanical connections for proper functioning. The same changes are made to the monthly inspection requirements for other types of monitoring devices in §§ 63.7741(a)(2)(vi), (c)(1)(vi), (c)(2)(iv), (d)(8), and (e)(2)(iv).

As proposed, these final amendments also revise the requirement for pressure measurement devices in 40 CFR 63.7741(a)(2)(iii) and 40 CFR 63.7741(c)(1)(iv) for a "daily check of the pressure tap for pluggage." We are requiring a daily check for pluggage when using a regular pressure tap and a monthly check when using a non-clogging pressure tap. These final amendments also clarify the requirements for pressure measurement devices in 40 CFR 63.7741(a)(2)(iv) and 40 CFR 63.7741(c)(1)(iv) to allow the use of a manometer or equivalent device for calibrations.

F. Recordkeeping and Reporting Requirements

As proposed, these final amendments clarify two of the recordkeeping requirements in 40 CFR 63.7752(a)(4). The requirement for the annual quantity of chemical binder or coating materials used to make molds and cores is revised to require the annual quantity of chemical binder or coating materials used to coat or make molds and cores. (We inadvertently omitted the word "coat" from the original rule language.) The final requirement for records of the annual quantity of HAP used states that records are required of the annual quantity of HAP used in these chemical binder or coating materials at the foundry, as calculated from the recorded quantities and chemical compositions (from Material Data Safety Sheet or other documentation). This final amendment clarifies that the HAP records requirement is specific to the chemicals used in the mold and core-making and coating operations and not to other HAP materials used at the foundry such as solvents used to clean or degrease equipment.

These final amendments to the reporting requirements allow foundries to report the results of the semiannual opacity tests within the semiannual reports rather than having to submit these semiannual documents separately. Other final amendments to the reporting requirements clarify the requirements for an immediate startup, shutdown, and malfunction report by adding the same language used in 40 CFR 63.10(d)(5)(ii). These final amendments require an immediate report if a foundry has a startup, shutdown, or malfunction and exceeds any applicable emissions limitation in 40 CFR 63.7690.

G. Definitions

We are amending the definition of the term "Deviation" in 40 CFR 63.7765 to clarify that the enforcement authority determines if a deviation is a violation. The proposed amendment appeared at 72 FR 19164; however, due to a publication error, the new language was added after the first sentence of the original definition, rather than at the end. In these final amendments, we are correcting the placement of the new language.

As proposed, we are adding definitions of the terms "off blast" and "on blast" to 40 CFR 63.7765. The term "off blast" is defined as those periods of cupola operation when the cupola is not actively being used to produce molten metal. Off-blast conditions include cupola startup procedures as defined in the startup, shutdown, and malfunction plan. 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 term "on blast" means those periods of cupola operation when combustion (blast) air is introduced to the cupola furnace and the furnace is capable of producing molten metal. On blast conditions are characterized by both blast air introduction and molten metal production.

As proposed, these final amendments revise the definition of "total metal HAP" to specify the analytes to be included and how non-detect values are to be used in calculating the total metal HAP quantity. The definition of "total metal HAP" is the sum of the concentrations of antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium as measured by EPA Method 29 (40 CFR part 60, appendix A). Only the measured concentration of the listed analytes that are present at concentrations exceeding one-half of the quantification limit of the analytical method are used in the sum. If any of the analytes are not detected or are detected at concentrations less than one-half the quantification limit of the analytical method, the concentration of those analytes is assumed to be zero for the purposes of calculating the total metal HAP for this subpart.

As proposed, we are also clarifying the definition of "scrap preheater" to differentiate scrap dryers that are used solely to remove moisture from the scrap metal from scrap preheaters. The revised definition of "scrap preheater" states that scrap dryers, which are used solely to remove water from metal scrap that does not contain any volatile impurities or other tramp materials, are not considered to be scrap preheaters for purposes of this subpart.

H. Applicability

As proposed, we are revising the applicability provisions in 40 CFR 63.7681 to reference the definition of "major source" in 40 CFR 63.2. This amendment clarifies that when we refer to a "major source" of hazardous air pollutants in 40 CFR 63.7681, we are referring to the definition of major source in 40 CFR 63.2, and not, for example, to the definition of major source in 40 CFR 51.166.

I. Editorial Corrections

As proposed, we are correcting a grammatical error in 40 CFR 63.7710(b), which should refer to an emissions source subject to *a* (rather than "an") PM, metal HAP, TEA, or VOHAP emissions limit in 40 CFR 63.7690(a). A comma is added to 40 CFR 63.7734(a)(11). The words "as possible" are added to 40 CFR 63.7741(a)(2)(i). The final amendments also correct a misspelling of the word "calendar" in 40 CFR 63.7700(c)(3)(iii).

IV. Summary of Comments and Responses

A. Language of Proposed Alternative Emissions Limits

Comment: One commenter expressed support for the proposed alternative standards for PM or total metal HAP and conforming amendments. However, the commenter believed that the wording of the proposed limit for total metal HAP is ambiguous even though the meaning is clear in context. According to the commenter, the proposed limit for total metal HAP (0.008 lb/ton of total metal

HAP) could be construed to mean that the standard is 0.008 pounds of some unspecified substance per ton of total metal HAP emitted. The commenter recommended that EPA clarify the language to read "0.008 pounds of total metal HAP per ton (lb/ton) of metal charged" which would be consistent with the language in § 63.7690(a)(ii) for the proposed alternative PM limit.

Response: Section 63.7690(a)(2)(ii) of the proposed amendments establishes the alternative limit for PM as 0.10 pound of PM per ton (lb/ton) of metal charged; the lb/ton abbreviation is then used in § 63.7690(a)(2)(iv) for the total metal HAP limit. While we agree with the commenter that the meaning is clear in context, we have revised the language for the total metal HAP limit to read according to the commenter's suggestion. For additional clarity, we have revised the wording of both limits when they appear in conforming amendments to read "pound of PM per ton (lb/ton) of metal charged" and "pound of total metal HAP per ton (lb/ton) of metal charged."

B. Mercury Emissions Limit

Comment: One commenter recommended that EPA adopt stand-alone mercury emissions standards similar to those in New Jersey.[1] The commenter explained that the rule requires iron and steel melters (at both foundries and steel production plants) to meet a mercury emissions limit of 35 milligrams per ton (mg/ton) of steel produced or, in the alternative, reduce mercury emissions by 75 percent using a mercury control apparatus. The emission limit, which becomes effective in January 2010, can be achieved through source separation measures and, if necessary, additional exhaust controls. According to the commenter, the emissions limit determines the success of the source separation program and the need for add-on mercury control measures on the melter exhaust. The commenter stated that one foundry had recently installed an activated carbon injection system for mercury control and a baghouse serving the cupola and that test results show greater than 90 percent mercury control and emissions less than 3 mg/ton. According to the commenter, other facilities with existing fabric filter control are testing carbon injection and have reported compliance with the mercury emissions limit but have not submitted formal test results.

Response: As described in the preamble to the final NESHAP for Iron and Steel Foundries (69 FR 21906, April 22, 2004), the control systems used at iron and steel foundries at the time the NESHAP was developed were not effective in reducing mercury emissions. The pollution prevention measure of removing mercury switches from automotive scrap was determined to be a cost-effective "beyond the MACT floor" requirement and was included as a requirement in the final NESHAP as part of the scrap selection and inspection program. The final NESHAP was projected to reduce mercury emissions by 2,800 pounds per year at a cost of $3.6 million per year (which includes increased cost of scrap for removing the mercury switches). We recognize that there are other mercury-containing devices in automotive scrap so that the pollution prevention program required by the final NESHAP does not eliminate all mercury from the scrap. At the time the NESHAP was developed, we considered requirements for more stringent mercury reduction requirements, either through additional scrap inspection and selection inspection requirements specific to other mercury-containing devices or through innovative mercury controls. Based on the small quantities of mercury in these other devices, these options were determined to be cost-ineffective.

A re-evalulation of the MACT floor for the Iron and Steel NESHAP in light of new control systems added to iron and steel foundries since the NESHAP was first promulgated is outside the scope of the current package of amendments. We did not include or take comment on a separate mercury limit in our April 17, 2007 Notice of Proposed Rulemaking. Therefore, we are not including specific emission limits for mercury in the final amendments. A technology review of the MACT standards is required by the CAA eight years after promulgation. These newly installed mercury controls will be considered in detail during this technology review.

C. Information on Mercury Switch Removal From Scrap Suppliers

Comment: One commenter stated that EPA should not revise § 63.7700(b)(2) to eliminate the requirement that facilities buy scrap only from suppliers willing to provide a copy of their procedures for ensuring that mercury switches are removed from automobile bodies that they supply. The commenter believed that no supplier will do this unless foundries require it because suppliers that do provide a copy of their procedures will be at a disadvantage to suppliers that either do not remove the mercury switches or are unwilling to document their removal procedures. According to the commenter, under the proposed amendments, suppliers would not be penalized as they are under the existing rule.

The commenter stated that this proposed amendment increases mercury emissions and that EPA did not provide an estimate of the health, environmental, and economic impacts of the increase. The commenter also claimed that because of limitations currently enforced on some sources, the proposed amendment reduces the stringency of the rule below the MACT floor for new sources and possibly for existing sources. According to the commenter, the proposed amendment is inconsistent with the CAA.

Response: The amendment does not absolve the iron and steel foundry from the responsibility to use automotive scrap that has had accessible mercury switches removed. In previous amendments to the NESHAP (70 FR 29400, May 20, 2005), we included provisions for foundries to perform inspections at the scrap supplier. Thus, the foundry should be able to verify whether the supplier in fact removes accessible mercury switches. The reason for the amendment is to clarify that EPA is not imposing a regulatory burden on the scrap supplier through this rule. EPA is not requiring scrap suppliers to provide the foundry with written procedures for ensuring the mercury switches are removed. Nevertheless, because we require foundries to purchase only automotive scrap that has had accessible mercury switches removed from the trunks and hoods of automobile bodies, a foundry is much more likely to do business with a scrap supplier that supplies written procedures than with one that does not. It is incumbent on the foundry to document their attempt to obtain written procedures and to ensure, through site inspections or other means, that any automotive scrap that they purchase from their suppliers has had accessible mercury switches removed from the trunks and hoods.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735,

[1] The State of New Jersey Department of Environmental Protection mercury regulations for iron and steel scrap melting specify that mercury emissions from each melter shall not exceed 35 megagrams per ton of steel produced. Alternatively, mercury emissions as measured at the exit of the mercury control apparatus must be reduced by at least 75 percent (N.J.A.C. 7:27–27.6). These rules have been upheld by the Appellate Division of the State Superior Court.

October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These final amendments add a new compliance alternative, allow a new alternative test method, and clarify requirements in the existing rule. One amendment to the baghouse monitoring requirements clarifies our original intent to require inspections of positive pressure baghouses not equipped with a stack. No new burden is associated with this requirement because the burden was included in the approved information collection request (ICR) for the existing rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulation (40 CFR part 63, subpart EEEEE) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* and has assigned OMB control number 2060–0543, EPA ICR number 2096.03. A copy of the OMB-approved ICR may be obtained from Susan Auby, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of these final amendments on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 500 employees for NAICS codes 331511, 331512, and 331513); (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.

After considering the economic impacts of these final amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, 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, or otherwise has a positive economic effect on all of the small entities subject to the rule.

There would not be any adverse impacts on any source (including any small entity) as a result of the final amendments because the final amendments do not create any new requirements or burdens that were not already included in the economic impact assessment for the existing rule. These final amendments relieve regulatory burden for all entities as a result of the operational flexibility afforded by the alternative compliance option, alternative test method, and provisions allowing plants to combine multiple reports into a single submission. We have therefore concluded that these final amendments will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that these final amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The final amendments are expected to result in an overall reduction in expenditures for the private sector and are not expected to impact State, local, or tribal governments. Thus, the final amendments are not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that these final amendments contain no regulatory requirements that might significantly or uniquely affect small governments. These final amendments

contain no requirements that apply to such governments, and impose no obligations upon them.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that 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."

These final amendments do not have federalism implications. They 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, as specified in Executive Order 13132. These final amendments do not impose any requirements on State and local governments. Thus, Executive Order 13132 does not apply to these final amendments.

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

Executive Order 13175 (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." These final amendments do not have tribal implications, as specified in Executive Order 13175. These final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to these final amendments.

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

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These final amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These final amendments are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

These final amendments involve technical standards. Therefore the Agency conducted a search to identify potential VCS in addition to the EPA and alternative method. However, we identified no such standards and none were brought to our attention in comments. Therefore EPA has decided to use an alternative methodology, the NIOSH Method 2010, "Amines, Aliphatic" (incorporated by reference in § 63.14) for EPA Method 18 (40 CFR part 60, appendix A) to determine the TEA concentration of gases from the TEA cold box mold or core making line provided the performance requirements outlined in section 13.1 of EPA Method 18 are satisfied.

For the methods required or referenced by these final amendments, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions.

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

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.

EPA has determined that these final amendments will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they do not affect the level of protection provided to human health or the environment. These final amendments do not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing these final amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final amendments in the **Federal Register**. A major rule 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). These final amendments will be effective on February 7, 2008.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference,

Reporting and recordkeeping requirements.

Dated: January 23, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, part 63, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

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

Subpart A—[Amended]

■ 2. Section 63.14 is amended by adding paragraph (k)(2) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(k) * * *

(2) The following method as published in the National Institute of Occupational Safety and Health (NIOSH) test method compendium, "NIOSH Manual of Analytical Methods", NIOSH publication no. 94–113, Fourth Edition, August 15, 1994.

(i) NIOSH Method 2010, "Amines, Aliphatic," Issue 2, August 15, 1994, IBR approved for § 63.7732(g)(1)(v) of Subpart EEEEE of this part.

(ii) [Reserved]

* * * * *

Subpart EEEEE—[Amended]

■ 3. Section 63.7681 is amended by revising the second sentence to read as follows:

§ 63.7681 Am I subject to this subpart?

* * * Your iron and steel foundry is a major source of HAP for purposes of this subpart 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 or if it is located at a facility that 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 as defined in § 63.2.

■ 4. Section 63.7690 is amended by:

■ a. Revising paragraphs (a) introductory text;

■ b. Revising paragraph (a)(2);

■ c. Revising paragraph (a)(7);

■ d. Revising paragraphs (a)(11)(i) and (ii); and

■ e. Revising paragraph (b)(1) introductory text to read as follows:

§ 63.7690 What emissions limitations must I meet?

(a) You must meet the emissions limits or standards in paragraphs (a)(1) through (11) of this section that apply to you. When alternative emissions limitations are provided for a given emissions source, you are not restricted in the selection of which applicable alternative emissions limitation is used to demonstrate compliance.

* * * * *

(2) For each cupola metal melting furnace at an existing iron and steel foundry, you must not discharge emissions through a conveyance to the atmosphere that exceed either the limit for PM in paragraph (a)(2)(i) or (ii) of this section or, alternatively the limit for total metal HAP in paragraph (a)(2)(iii) or (iv) of this section:

(i) 0.006 gr/dscf of PM; or

(ii) 0.10 pound of PM per ton (lb/ton) of metal charged, or

(iii) 0.0005 gr/dscf of total metal HAP; or

(iv) 0.008 pound of total metal HAP per ton (lb/ton) of metal charged.

* * * * *

(7) For each building or structure housing any iron and steel foundry emissions source at the iron and steel foundry, you must not discharge any fugitive emissions to the atmosphere from foundry operations that exhibit opacity greater than 20 percent (6-minute average), except for one 6-minute average per hour that does not exceed 27 percent opacity.

* * * * *

(11) * * *

(i) You must not discharge emissions of TEA through a conveyance to the atmosphere that exceed 1 ppmv, as determined according to the performance test procedures in § 63.7732(g); or

(ii) You must reduce emissions of TEA from each TEA cold box mold or core making line by at least 99 percent, as determined according to the performance test procedures in § 63.7732(g).

(b) * * *

(1) You must install, operate, and maintain a capture and collection system for all emissions sources subject to an emissions limit for VOHAP or TEA in paragraphs (a)(8) through (11) of this section.

* * * * *

■ 5. Section 63.7700 is amended by:

■ a. Revising the last sentence in paragraph (b);

■ b. Revising paragraphs (c)(1)(i) and (ii);

■ c. Revising the last sentence in paragraph (c)(2);

■ d. Revising paragraph (c)(3)(iii); and

■ e. Revising paragraph (e)(1) to read as follows:

§ 63.7700 What work practice standards must I meet?

* * * * *

(b) * * * 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.

(c) * * *

(1) * * *

(i) For scrap charged to a scrap preheater, electric arc metal melting furnace, or electric induction metal melting furnace, specifications for scrap materials to be depleted (to the extent practicable) of the presence of used oil filters, chlorinated plastic parts, organic liquids, and a program to ensure the scrap materials are drained of free liquids; or

(ii) For scrap charged to a cupola metal melting furnace, specifications for scrap materials to be depleted (to the extent practicable) of the presence of chlorinated plastic, and a program to ensure the scrap materials are drained of free liquids.

(2) * * * You must either obtain and maintain onsite a copy of the procedures used by the scrap supplier for either removing accessible mercury switches or for purchasing automobile bodies that have had mercury switches removed, as applicable, or document your attempts to obtain a copy of these procedures from the scrap suppliers servicing your area.

(3) * * *

(iii) The inspection procedures must include provisions for rejecting or returning entire or partial scrap shipments that do not meet specifications and limiting purchases from vendors whose shipments fail to meet specifications for more than three inspections in one calendar year.

* * * * *

(e) * * *

(1) You must operate and maintain a gas-fired preheater where the flame directly contacts the scrap charged; or

* * * * *

■ 6. Section 63.7710 is amended by revising the first sentence in paragraph (b) introductory text to read as follows:

§ 63.7710 What are my operation and maintenance requirements?

* * * * *

(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).
* * *

* * * * *

■ 7. Section 63.7731 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 63.7731 When must I conduct subsequent performance tests?

(a) You must conduct subsequent performance tests to demonstrate compliance with all applicable PM or total metal HAP, VOHAP, and TEA emissions limitations in § 63.7690 for your iron and steel foundry no less frequently than every 5 years and each time you elect to change an operating limit or to comply with a different alternative emissions limit, if applicable. * * *

* * * * *

■ 8. Section 63.7732 is amended by:
■ a. Revising paragraph (a);
■ b. Redesignating Equations 1 through 5 as Equations 3 through 7;
■ c. Revising paragraphs (b) introductory text, (b)(4), and (b)(5) and adding paragraph (b)(6) containing Equation 1;
■ d. Revising paragraphs (c) introductory text, (c)(2), (c)(4), and (c)(5) and adding paragraph (c)(6) containing Equation 2;
■ e. Revising paragraph (d) introductory text, adding two sentences to the end of paragraph (d)(1), and revising paragraph (d)(2);
■ f. Revising paragraph (e)(3);
■ g. Revising paragraphs (f)(2)(ix) and (f)(3);
■ h. Revising paragraphs (g)(1)(v), (g)(2), and (g)(4);
■ i. Revising paragraphs (h)(2)(ii), (h)(3)(ii), and (h)(3)(iii); and
■ j. Adding paragraph (i) 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 § 63.7(e)(1) and the conditions specified in paragraphs (b) through (i) of this section.

(b) To determine compliance with the applicable emissions limit for PM in § 63.7690(a)(1) through (6) for a metal melting furnace, scrap preheater, pouring station, or pouring area, follow the test methods and procedures in paragraphs (b)(1) through (6) of this section.

* * * * *

(4) For electric arc and electric induction metal melting furnaces, sample only during normal production conditions, which may include, but are not limited to the following cycles: Charging, melting, alloying, refining, slagging, and tapping.

(5) For scrap preheaters, sample only during normal production conditions, which may include, but are not limited to the following cycles: Charging, heating, and discharging.

(6) Determine the total mass of metal charged to the furnace or scrap preheater. For a cupola metal melting furnace at an existing iron and steel foundry that is subject to the PM emissions limit in § 63.7690(a)(ii), calculate the PM emissions rate in pounds of PM per ton (lb/ton) of metal charged using Equation 1 of this section:

$$EF_{PM} = C_{PM} \times \left(\frac{Q}{M_{charge}} \right) \times \left(\frac{t_{test}}{7{,}000} \right) \qquad \text{(Eq. 1)}$$

Where:

EF_{PM} = Mass emissions rate of PM, pounds of PM per ton (lb/ton) of metal charged;
C_{PM} = Concentration of PM measured during performance test run, gr/dscf;
Q = Volumetric flow rate of exhaust gas, dry standard cubic feet per minute (dscfm);
M_{charge} = Mass of metal charged during performance test run, tons;
t_{test} = Duration of performance test run, minutes; and
7,000 = Unit conversion factor, grains per pound (gr/lb).

(c) To determine compliance with the applicable emissions limit for total metal HAP in § 63.7690(a)(1) through (6) for a metal melting furnace, scrap preheater, pouring station, or pouring area, follow the test methods and procedures in paragraphs (c)(1) through (6) of this section.

* * * * *

(2) A minimum of three valid test runs are needed to comprise a performance test.

* * * * *

(4) For electric arc and electric induction metal melting furnaces, sample only during normal production conditions, which may include, but are not limited to the following cycles: Charging, melting, alloying, refining, slagging, and tapping.

(5) For scrap preheaters, sample only during normal production conditions, which may include, but are not limited to the following cycles: Charging, heating, and discharging.

(6) Determine the total mass of metal charged to the furnace or scrap preheater during each performance test run and calculate the total metal HAP emissions rate (pounds of total metal HAP per ton (lb/ton) of metal charged) using Equation 2 of this section:

$$EF_{TMHAP} = C_{TMHAP} \times \left(\frac{Q}{M_{charge}} \right) \times \left(\frac{t_{test}}{7{,}000} \right) \qquad \text{(Eq. 2)}$$

Where:

EF_{TMHAP} = Emissions rate of total metal HAP, pounds of total metal HAP per ton (lb/ton) of metal charged;
C_{TMHAP} = Concentration of total metal HAP measured during performance test run, gr/dscf;
Q = Volumetric flow rate of exhaust gas, dscfm;
M_{charge} = Mass of metal charged during performance test run, tons;
t_{test} = Duration of performance test run, minutes; and
7,000 = Unit conversion factor, gr/lb.

(d) To determine compliance with the opacity limit in § 63.7690(a)(7) for fugitive emissions from buildings or structures housing any iron and steel foundry emissions source at the iron and steel foundry, follow the procedures

in paragraphs (d)(1) and (2) of this section.

(1) * * * The certified observer may identify a limited number of openings or vents that appear to have the highest opacities and perform opacity observations on the identified openings or vents in lieu of performing observations for each opening or vent from the building or structure. Alternatively, a single opacity observation for the entire building or structure may be performed, if the fugitive release points afford such an observation.

(2) During testing intervals when PM performance tests, if applicable, are being conducted, conduct the opacity test such the opacity observations are recorded during the PM performance tests.

(e) * * *

(3) For a cupola metal melting furnace, correct the measured concentration of VOHAP, TGNMO, or TOC for oxygen content in the gas stream using Equation 3 of this section:

$$C_{VOHAP,\ 10\%O_2} = C_{VOHAP}\left(\frac{10.9\%}{20.9\% - \%O_2}\right) \qquad \text{(Eq. 3)}$$

Where:

C_{VOHAP} = Concentration of VOHAP in ppmv as measured by Method 18 in 40 CFR part 60, appendix A or the concentration of TGNMO or TOC in ppmv as hexane as measured by Method 25 or 25A in 40 CFR part 60, appendix A; and

$\%O_2$ = Oxygen concentration in gas stream, percent by volume (dry basis).

* * * * *

(f) * * *

(2) * * *

(ix) Calculate the site-specific VOC emissions limit using Equation 4 of this section:

$$VOC_{limit} = 20 \times \frac{C_{VOHAP,\ avg}}{C_{CEM}} \qquad \text{(Eq. 4)}$$

Where:

$C_{VOHAP,avg}$ = Average concentration of VOHAP for the source test in ppmv as measured by Method 18 in 40 CFR part 60, appendix A or the average concentration of TGNMO for the source test in ppmv as hexane as measured by Method 25 in 40 CFR part 60, appendix A; and

C_{CEM} = Average concentration of total hydrocarbons in ppmv as hexane as measured using the CEMS during the source test.

(3) For two or more exhaust streams from one or more automated conveyor and pallet cooling lines or automated shakeout lines, compute the flow-weighted average concentration of VOHAP emissions for each combination of exhaust streams using Equation 5 of this section:

$$C_W = \frac{\sum_{i=1}^{n} C_i Q_i}{\sum_{i=1}^{n} Q_i} \qquad \text{(Eq. 5)}$$

Where:

C_w = Flow-weighted concentration of VOHAP or VOC, ppmv (as hexane);

C_i = Concentration of VOHAP or VOC from exhaust stream "i", ppmv (as hexane);

n = Number of exhaust streams sampled; and

Q_i = Volumetric flow rate of effluent gas from exhaust stream "i,", dscfm.

(g) * * *

(1) * * *

(v) Method 18 to determine the TEA concentration. Alternatively, you may use NIOSH Method 2010 (incorporated by reference—see § 63.14) to determine the TEA concentration provided the performance requirements outlined in section 13.1 of EPA Method 18 are satisfied. The sampling option and time must be sufficiently long such that either the TEA concentration in the field sample is at least 5 times the limit of detection for the analytical method or the test results calculated using the laboratory's reported analytical detection limit for the specific field samples are less than 1/5 of the applicable emissions limit. When using Method 18, the adsorbent tube approach, as described in section 8.2.4 of Method 18, may be required to achieve the necessary analytical detection limits. The sampling time must be at least 1 hour in all cases.

(2) If you use a wet acid scrubber, conduct the test as soon as practicable after adding fresh acid solution and the system has reached normal operating conditions.

* * * * *

(4) If you are subject to the 99 percent reduction standard, calculate the mass emissions reduction using Equation 6 of this section:

$$\%\,\text{reduction} = \frac{E_i - E_o}{E_i} \times 100\% \qquad \text{(Eq. 6)}$$

Where:

E_i = Mass emissions rate of TEA at control device inlet, kilograms per hour (kg/hr); and

E_o = Mass emissions rate of TEA at control device outlet, kg/hr.

(h) * * *

(2) * * *

(ii) Calculate the flow-weighted average emissions limit, considering only the regulated streams, using Equation 5 of this section, except C_w is the flow-weighted average emissions limit for PM or total metal HAP in the exhaust stream, gr/dscf; and C_i is the concentration of PM or total metal HAP in exhaust stream "i", gr/dscf.

* * * * *

(3) * * *

(ii) Measure the flow rate and PM or total metal HAP concentration of the combined exhaust stream both before and after the control device and calculate the mass removal efficiency of the control device using Equation 6 of this section, except E_i is the mass emissions rate of PM or total metal HAP at the control device inlet, lb/hr and E_o is the mass emissions rate of PM or total metal HAP at the control device outlet, lb/hr.

(iii) Meet the applicable emissions limit based on the calculated PM or total metal HAP concentration for the regulated emissions sources using Equation 7 of this section:

$$C_{released} = C_i \times \left(1 - \frac{\%\,\text{reduction}}{100}\right) \qquad \text{(Eq. 7)}$$

Where:

$C_{released}$ = Calculated concentration of PM (or total metal HAP) predicted to be released to the atmosphere from the regulated emissions source, gr/dscf; and

C_i = Concentration of PM (or total metal HAP) in the uncontrolled regulated exhaust stream, gr/dscf.

(i) To determine compliance with an emissions limit for situations when multiple sources are controlled by a single control device, but only one source operates at a time, or other situations that are not expressly considered in paragraphs (b) through (h) of this section, a site-specific test plan should be submitted to the Administrator for approval according to the requirements in § 63.7(c)(2) and (3).

■ 9. Section 63.7733 is amended by revising paragraphs (b)(2), (c)(2), and (d)(2) to read as follows:

§ 63.7733 What procedures must I use to establish operating limits?

* * * * *

(b) * * *

(2) Compute and record the average pressure drop and average scrubber water flow rate for each valid sampling run in which the applicable emissions limit is met.

(c) * * *

(2) Compute and record the average combustion zone temperature for each valid sampling run in which the applicable emissions limit is met.

(d) * * *

(2) Compute and record the average scrubbing liquid flow rate for each valid sampling run in which the applicable emissions limit is met.

* * * * *

■ 10. Section 63.7734 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(2)(ii);

■ c. Adding paragraphs (a)(2)(iii) and (iv);

■ d. Revising paragraphs (a)(7) and (a)(11) to read as follows:

§ 63.7734 How do I demonstrate initial compliance with the emissions limitations that apply to me?

(a) You have demonstrated initial compliance with the emissions limits in § 63.7690(a) by meeting the applicable conditions in paragraphs (a)(1) through (11) of this section. When alternative emissions limitations are provided for a given emissions source, you are not restricted in the selection of which applicable alternative emissions limitation is used to demonstrate compliance.

* * * * *

(2) * * *

(ii) The average total metal HAP concentration in the exhaust stream, determined according to the performance test procedures in § 63.7732(c), did not exceed 0.0005 gr/dscf; or

(iii) The average PM mass emissions rate, determined according to the performance test procedures in § 63.7732(b), did not exceed 0.10 pound of PM per ton (lb/ton) of metal charged; or

(iv) The average total metal HAP mass emissions rate, determined according to the performance test procedures in § 63.7732(c), did not exceed 0.008 pound of total metal HAP per ton (lb/ton) of metal charged.

* * * * *

(7) For each building or structure housing any iron and steel foundry emissions source at the iron and steel foundry, the opacity of fugitive emissions from foundry operations discharged to the atmosphere, determined according to the performance test procedures in § 63.7732(d), did not exceed 20 percent (6-minute average), except for one 6-minute average per hour that did not exceed 27 percent opacity.

* * * * *

(11) For each TEA cold box mold or core making line in a new or existing iron and steel foundry, the average TEA concentration, determined according to the performance test procedures in § 63.7732(g), did not exceed 1 ppmv or was reduced by 99 percent.

* * * * *

■ 11. Section 63.7736 is amended by revising paragraph (c)(1) to read as follows:

§ 63.7736 How do I demonstrate initial compliance with the operation and maintenance requirements that apply to me?

* * * * *

(c) * * *

(1) You have submitted the bag leak detection system monitoring information to the Administrator within the written O&M plan for approval according to the requirements of § 63.7710(b);

* * * * *

■ 12. Section 63.7740 is amended by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (c) through (g) as (d) through (h); and

■ c. Adding paragraph (c) to read as follows:

§ 63.7740 What are my monitoring requirements?

* * * * *

(b) For each negative pressure baghouse or positive pressure baghouse equipped with a stack that is applied to meet any PM or total metal HAP emissions limitation in this subpart, you must at all times monitor the relative change in PM loadings using a bag leak detection system according to the requirements in § 63.7741(b).

(c) For each baghouse, regardless of type, that is applied to meet any PM or total metal HAP emissions limitation in this subpart, you must conduct inspections at their specified frequencies according to the requirements specified in paragraphs (c)(1) through (8) of this section.

(1) Monitor the pressure drop across each baghouse cell each day to ensure pressure drop is within the normal operating range identified in the manual.

(2) Confirm that dust is being removed from hoppers through weekly visual inspections or other means of ensuring the proper functioning of removal mechanisms.

(3) Check the compressed air supply for pulse-jet baghouses each day.

(4) Monitor cleaning cycles to ensure proper operation using an appropriate methodology.

(5) Check bag cleaning mechanisms for proper functioning through monthly visual inspections or equivalent means.

(6) Make monthly visual checks of bag tension on reverse air and shaker-type baghouses to ensure that bags are not kinked (kneed or bent) or lying on their sides. You do not have to make this check for shaker-type baghouses using self-tensioning (spring-loaded) devices.

(7) Confirm the physical integrity of the baghouse through quarterly visual inspections of the baghouse interior for air leaks.

(8) Inspect fans for wear, material buildup, and corrosion through quarterly visual inspections, vibration detectors, or equivalent means.

* * * * *

■ 13. Section 63.7741 is amended by:

■ a. Revising paragraphs (a)(1)(iv), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), and (a)(2)(vi);

■ b. Revising paragraph (b) introductory text;

■ c. Revising paragraphs (c)(1)(iii), (c)(1)(iv), (c)(1)(vi), and (c)(2)(iv);

■ d. Revising paragraph (d)(8); and

■ e. Revising paragraph (e)(2)(iv) to read as follows:

§ 63.7741 What are the installation, operation, and maintenance requirements for my monitors?

(a) * * *

(1) * * *

(iv) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

(2) * * *

(i) Locate the pressure sensor(s) in or as close as possible to a position that provides a representative measurement of the pressure and that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion.

* * * * *

(iii) Check the pressure tap for pluggage daily. If a "non-clogging" pressure tap is used, check for pluggage monthly.

(iv) Using a manometer or equivalent device such as a magnahelic or other pressure indicating transmitter, check gauge and transducer calibration quarterly.

* * * * *

(vi) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

* * * * *

(b) For each negative pressure baghouse or positive pressure baghouse equipped with a stack that is applied to meet any PM or total metal HAP emissions limitation in this subpart, you must install, operate, and maintain a bag leak detection system according to the requirements in paragraphs (b)(1) through (7) of this section.

* * * * *

(c) * * *

(1) * * *

(iii) Check the pressure tap for pluggage daily. If a "non-clogging" pressure tap is used, check for pluggage monthly.

(iv) Using a manometer or equivalent device such as a magnahelic or other pressure indicating transmitter, check gauge and transducer calibration quarterly.

* * * * *

(vi) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

(2) * * *

(iv) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

(d) * * *

(8) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

(e) * * *

(2) * * *

(iv) At least monthly, visually inspect all components, including all electrical and mechanical connections, for proper functioning.

* * * * *

■ 14. Section 63.7743 is amended by:

■ a. Adding a second sentence to the end of paragraph (a) introductory text and removing the colon after the first sentence in paragraph (a) in text and adding period in its place;

■ b. Revising paragraph (a)(2)(ii) and adding paragraphs (a)(2)(iii) and (iv);

■ c. Revising paragraph (a)(7); and

■ d. Revising paragraph (c) introductory text and paragraphs (c)(1) and (2) to read as follows:

§ 63.7743 How do I demonstrate continuous compliance with the emissions limitations that apply to me?

(a) * * * When alternative emissions limitations are provided for a given emissions source, you must comply with the alternative emissions limitation most recently selected as your compliance alternative.

* * * * *

(2) * * *

(ii) Maintaining the average total metal HAP concentration in the exhaust stream at or below 0.0005 gr/dscf; or

(iii) Maintaining the average PM mass emissions rate at or below 0.10 pound of PM per ton (lb/ton) of metal charged; or

(iv) Maintaining the average total metal HAP mass emissions rate at or below 0.008 pound of total metal HAP per ton (lb/ton) of metal charged.

* * * * *

(7) For each building or structure housing any iron and steel foundry emissions source at the iron and steel foundry, maintaining the opacity of any fugitive emissions from foundry operations discharged to the atmosphere at or below 20 percent opacity (6-minute average), except for one 6-minute average per hour that does not exceed 27 percent opacity.

* * * * *

(c) For each baghouse,

(1) Inspecting and maintaining each baghouse according to the requirements of § 63.7740(c)(1) through (8) and recording all information needed to document conformance with these requirements; and

(2) If the baghouse is equipped with a bag leak detection system, maintaining records of the times the bag leak detection system sounded, and for each valid alarm, the time you initiated corrective action, the corrective action taken, and the date on which corrective action was completed.

* * * * *

■ 15. Section 63.7750 is amended by adding a sentence to the end of paragraph (e) introductory text to read as follows:

§ 63.7750 What notifications must I submit and when?

* * * * *

(e) * * * For opacity performance tests, the notification of compliance status may be submitted with the semiannual compliance report in § 63.7751(a) and (b) or the semiannual part 70 monitoring report in § 63.7551(d).

* * * * *

■ 16. Section 63.7751 is amended by revising paragraph (c) to read as follows:

§ 63.7751 What reports must I submit and when?

* * * * *

(c) Immediate startup, shutdown, and malfunction report. If you had a startup, shutdown, or malfunction during the semiannual reporting period that was not consistent with your startup, shutdown, and malfunction plan and the source exceeds any applicable emissions limitation in § 63.7690, you must submit an immediate startup, shutdown, and malfunction report according to the requirements of § 63.10(d)(5)(ii).

* * * * *

■ 17. Section 63.7752 is amended by revising paragraph (a)(4) to read as follows:

§ 63.7752 What records must I keep?

(a) * * *

(4) Records of the annual quantity of each chemical binder or coating material used to coat or make molds and cores, the Material Data Safety Sheet or other documentation that provides the chemical composition of each component, and the annual quantity of HAP used in these chemical binder or coating materials at the foundry as calculated from the recorded quantities and chemical compositions (from Material Data Safety Sheets or other documentation).

* * * * *

■ 18. Section 63.7765 is amended by:

■ a. Revising the definition for "Deviation";

■ b. Adding, in alphabetical order, definitions for "Offblast" and "On blast"; and

■ c. Revising the definitions "Scrap preheater" and adding "Total metal HAP" to read as follows:

§ 63.7765 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), work practice 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 iron and steel foundry required to obtain such a permit; or

(3) Fails to meet any emissions limitation (including operating limits) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

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 when air is introduced to the cupola to preheat the sand bed and other cupola startup procedures as defined in the startup, shutdown, and malfunction plan. 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.

On blast means those periods of cupola operation when combustion (blast) air is introduced to the cupola furnace and the furnace is capable of producing molten metal. On blast conditions are characterized by both blast air introduction and molten metal production.

Scrap preheater means a vessel or other piece of equipment in which metal scrap that is to be used as melting furnace feed is heated to a temperature high enough to eliminate volatile impurities or other tramp materials by direct flame heating or similar means of heating. Scrap dryers, which solely remove moisture from metal scrap, are not considered to be scrap preheaters for purposes of this subpart.

Total metal HAP means, for the purposes of this subpart, the sum of the concentrations of antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium as measured by EPA Method 29 (40 CFR part 60, appendix A). Only the measured concentration of the listed analytes that are present at concentrations exceeding one-half the quantitation limit of the analytical method are to be used in the sum. If any of the analytes are not detected or are detected at concentrations less than one-half the quantitation limit of the analytical method, the concentration of those analytes will be assumed to be zero for the purposes of calculating the total metal HAP for this subpart.

* * * * *

■ 19. Table 1 to subpart EEEEE is amended by revising the entry for § 63.9 to read as follows:

TABLE 1 TO SUBPART EEEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEEE

* * * * * * *

Citation	Subject	Applies to subpart EEEEE?	Explanation
*	*	*	*
63.9	Notification requirements	Yes	Except: for opacity performance tests, Subpart EEEEE allows the notification of compliance status to be submitted with the semiannual compliance report or the semiannual part 70 monitoring report.
*	*	*	*

[FR Doc. E8–1979 Filed 2–6–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XF24

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the southern Florida west coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 6 a.m., local time, February 5, 2008, through 6 a.m., January 20, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305, fax: 727–824–5308, e-mail: *Susan.Gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001), NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is

Dated: March 19, 2008.

Timothy V. Skuby,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. E8–6631 Filed 3–31–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0155; FRL–8547–4]

RIN 2060–AO52

National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on amendments to the national perchloroethylene air emission standards for dry cleaning facilities promulgated on July 27, 2006, under the authority of section 112 of the Clean Air Act. This action amends rule language to correct applicability cross references that were not correctly amended between the most recent proposed and final rule revisions, and to clarify that condenser performance monitoring may be done by either of two prescribed methods (pressure or temperature), regardless of whether an installed pressure gauge is present. Without these amendments, new area sources could erroneously be required to perform monitoring that was proposed for only major sources, and installed condenser performance gauge readings could be required of sources when a prescribed temperature method is just as valid for compliance purposes.

DATES: This rule is effective on July 15, 2008 without further notice, unless EPA receives adverse comment by May 16, 2008. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0155 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: a-and-r-docket@epa.gov* and *johnson.warren@epa.gov.*

3. *Facsimile:* (202) 566–9744 and (919) 541–3470.

4. *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

5. *Hand Delivery:* Deliver in person, or by courier deliveries to: EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0155. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit III of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. 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, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the National Emission Standards for Hazardous Air Pollutants for Four Area Source Categories Docket, EPA/DC, EPA West, Room 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Johnson, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–03), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–5124, electronic mail address *Johnson.warren@epa.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Why is EPA using a direct final rule?

EPA is publishing the rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. As explained below, this action amends rule language to clarify that colorimetric monitoring requirements were not intended for new dry cleaning machines

installed at area sources after December 21, 2005, and to clarify that condenser performance monitoring may be done by either of the prescribed methods (pressure or temperature), regardless of whether or not an installed pressure gauge is present.

Without these amendments, the rule can be interpreted as requiring:

(1) New dry cleaning machines installed at area sources after December 21, 2005, to perform colorimetric monitoring; and,

(2) Sources with installed condenser performance gauges to take readings, when a prescribed temperature method is just as valid for compliance purposes.

Either of these interpretations is problematic since neither was reflected in the proposed rule (70 FR 75884), nor did our notice of final rulemaking explain why or how the regulatory text changed from proposal to final promulgation to include such requirements.

However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (40 CFR part 63, subpart M) if adverse comments are received on this direct final rule. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect, and we will address all public comments received on the proposed rule in a subsequent final rule. We will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule must do so at this time. For further information about commenting on the rule, see the **ADDRESSES** section of this document.

II. Does this action apply to me?

The categories and entities potentially regulated by this direct final rule are industrial and commercial perchloroethylene (PCE) dry cleaners. The direct final rule affects the following categories of sources:

Category	NAICS[1] code	Examples of potentially regulated entities
Coin-operated Laundries and Dry Cleaners	812310	Dry-to-dry machines. Transfer machines.
Dry Cleaning and Laundry Services (except coin-operated)	812320	Dry-to-dry machines. Transfer machines.
Industrial Launderers	812332	Dry-to-dry machines. Transfer machines.

[1] North American Industry Classification System.

III. What should I consider as I prepare my comments to EPA?

Do not submit information containing CBI to EPA through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Docket ID No. EPA–HQ–OAR–2005–0155. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

IV. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

V. Why are we amending the rule?

On September 22, 1993, EPA promulgated National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (58 FR 49376). These standards are codified at 40 CFR part 63, subpart M. On December 21, 2005, EPA proposed revisions to the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (70 FR 75884) which included proposed provisions in 40 CFR 63.322(o)(2) that would have required owners or operators of a dry cleaning system at any major source to route the air-perchloroethylene gas-vapor stream contained within each dry cleaning machine through a refrigerated condenser and a carbon adsorber or equivalent control device immediately before or as the door of the dry cleaning machine is opened. Proposed § 63.322(o)(3) would have required owners and operators of dry cleaning systems installed after December 21, 2005, at area sources to meet similar requirements. In proposed § 63.323(b) and (c), the requirement to use a colorimetric detector tube or perchloroethylene gas analyzer would have applied to carbon adsorbers used to comply with proposed § 63.323(o)(2) (i.e., at major sources), but not to those used to comply with proposed § 63.322(o)(3) (i.e., at dry cleaning systems installed at area sources after December 21, 2005). In addition, proposed § 63.324(d)(6) would have imposed reporting and recordkeeping requirements for monitoring results where carbon adsorbers are used to meet proposed § 63.322(o)(2), but not to meet proposed § 63.322(o)(3).

In addition, proposed § 63.322(o)(4) would have prohibited any emissions of perchloroethylene during the transfer of articles between the washer and the dryer(s) or reclaimer(s) of any dry cleaning system, including at systems that are eligible for the limited exemptions from other requirements under proposed revised § 63.320(d) and (e).

On July 27, 2006, EPA promulgated final revisions to the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (71 FR 42724) and, in response to comments, removed the proposed provisions in § 63.322(o)(2) for owners or operators of a dry cleaning system at any major source. The provisions in proposed § 63.322(o)(3) for area source

systems installed after December 21, 2005, were then moved into § 63.322(o)(2) as we renumbered the section paragraphs. However, we failed to properly amend the cross references in §§ 63.323(b) and (c) and 63.324(d)(6) to § 63.322(o)(2), and thus inadvertently caused the colorimetric monitoring provisions and the recordkeeping and reporting provisions proposed for major sources to appear to apply to new systems installed after December 21, 2005, at area sources. Moreover, the proposed prohibition on perchloroethylene emissions during transfer moved from proposed § 63.322(o)(4) to final § 63.322(o)(3), and this renumbering of the paragraphs in § 63.322(o) was not tracked in the cross references in the final rule's applicability and exemption § 63.320(d) and (e). Hence, this direct final action makes appropriate amendments to the cross references in applicability § 63.320(d) and (e), and removes the cross references in §§ 63.323(b) and (c) and 63.324(d)(6) to § 63.322(o)(2).

Without cross reference corrections to the final rule, the rule cannot be implemented properly. For example, as a result of improper applicability cross referencing, colorimetric monitoring requirements would appear to be required of dry cleaning systems installed at area sources after December 21, 2005. This was not our intent and was not contained in the proposed rule. Neither is it supported by our impacts analysis or by public comments received on the proposal, nor is it explained or justified in the preamble or response to comments document supporting the final rule. Moreover, without these corrections, sources eligible for the limited exemptions under § 63.320(d) and (e) would appear to be also exempt from the universal prohibition proposed and promulgated regarding perchloroethylene emissions during transfers, even though this inadvertent change from the proposal was also not supported by any explanation in our final rulemaking.

In addition, while we did not propose changes to the test methods and monitoring requirements of § 63.323(a) in the December 21, 2005, proposal, we nonetheless amended this section in response to comments. In doing so, we stated in the preamble to the final rule that installed pressure gauge monitoring was a preferred method for monitoring condenser performance, and amended § 63.323(a) to include these monitoring provisions. As written, however, § 63.323(a) now states that only systems that are not equipped with refrigeration system pressure gauges may exercise the option of monitoring temperature, which has created a problem for operators whose installed pressure gauges are not operating properly. While we still believe that installed pressure gauges are a preferred monitoring method for most cases, we also recognize that either method is acceptable to demonstrate condenser compliance, regardless of whether or not a particular system is equipped with refrigeration system pressure gauges. This direct final action makes appropriate amendments to §§ 63.323(a) and 63.324(d) in order to allow owners or operators to monitor either pressure or temperature to demonstrate refrigerated condenser compliance, regardless of whether or not their system is equipped with refrigeration system pressure gauges.

Without amendments to the refrigerated condenser monitoring provisions, the final rule implies that systems equipped with refrigeration system pressure gauges would not have the option to monitor temperature. This was not our intent.

Finally, in § 63.322(o)(5)(i) of the final rule we promulgated a December 21, 2020, phase-out date for all PCE emissions from dry cleaning systems located in a building with a residence. This phase-out was intended to apply universally, without being subject to the limited exemptions provided by § 63.320(d), which grants limited relief for existing dry-to-dry machines and ancillary equipment at facilities with total annual PCE use of less than 530 liters (140 gallons). However, in promulgating amendments to § 63.320(d) in the final rule, we inadvertently cross-referenced the promulgated immediate prohibition of PCE emissions from new dry cleaning systems installed after December 21, 2005, in buildings with a residence, even though such new systems are not addressed by § 63.320(d). We are correcting this cross-referencing error, as necessary to avoid appearing to subject existing § 63.320(d)-eligible sources located in buildings with a residence to an immediate prohibition of PCE emissions, and to apply the same December 21, 2020 phase-out date that applies to all other existing co-residential sources.

VI. What amendments are we making to the rule?

As currently written, 40 CFR 63.323(b) and (c) require owners or operators of dry cleaning machines using carbon adsorbers to comply with §§ 63.322(a)(2), 63.322(b)(3) and 63.322(o)(2) to conduct colorimetric monitoring. Prior to the July 27, 2006, revisions, these requirements only applied, under § 63.322(b)(3), to new dry cleaning machines at a major sources installed after December 9, 1991, equipped with a closed-loop system with a refrigerated condenser and a carbon adsorber, and, under § 63.322(a)(2), to existing dry cleaning machines with a carbon adsorber installed as an alternative to a refrigerated condenser prior to September 22, 1993. Following the July 27, 2006 revisions, though, due to our inadvertent errors in tracking cross-references as changes in the rule were made from the proposed rule to the final rule revisions, it could be interpreted that these requirements now apply to all new dry cleaning systems installed after December 21, 2005, at area sources, which was neither proposed nor the EPA's intent. To remedy this, we are removing the references in § 63.323(b) and (c) to § 63.322(o)(2).

In addition, due to the July 27, 2006, revisions to 40 CFR 63.323(a), one could interpret that using the monitoring method in 40 CFR 63.323(a)(2)(ii) is only an option when the dry cleaning machine is not equipped with refrigeration system pressure gauges. Our intent was to allow either the method in 40 CFR 63.323(a)(1)(i), which uses pressure gauge readings, or in 40 CFR 63.323(a)(1)(ii), which uses temperature sensors, at the owner/operator's discretion. We recognized that the method in 40 CFR 63.323(a)(1)(i), which uses pressure gauge readings, requires that a machine be equipped with refrigeration system pressure gauges, but we did not intend that the presence or absence of such gauges would dictate which of these two methods could be used for compliance. To remedy this, we are amending 40 CFR 63.323(a) by removing the phrase "If the machine is not equipped with refrigeration system pressure gauges" as a condition for using the temperature method in 40 CFR 63.323(a)(1)(ii). We are also amending the recordkeeping requirements in 40 CFR 63.324(d), to reflect this 40 CFR 63.323(a) amendment, by replacing the phrase "temperature sensor monitoring results" with "monitoring results (temperature sensor or pressure gauge)."

Finally, in order to remedy applicability section tracking inconsistency with the renumbering of paragraphs in § 63.322 between the most recent proposed and final revisions, we are amending the cross-references in the applicability § 63.320(d) and (e) to appropriately refer to § 63.322(o)(3) where they currently refer to § 63.322(o)(4).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to the review under the EO.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The rule requires enhanced LDAR program that requires a handheld portable monitor. Major source facilities will purchase a PCE gas analyzer and area sources will purchase a halogenated hydrocarbon leak detector. Owners and operators will incur the capital/startup cost of purchasing the monitors, plus ongoing annual operation and maintenance costs. No new information collection is required as part of these amendments; owners and operators will continue to keep records and submit required reports to EPA or the delegated State regulatory authority required in the final rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR 63 subpart M) under the provisions of the *Paperwork Reduction Act* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0234. The OMB control number for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the direct final rule on small entities, a small entity is defined as:

(1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201;

(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.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This direct final rule will not impose any new requirements on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with federal mandates that may result in expenditures to State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this direct final rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Therefore, the direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this direct final rule contains no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the regulation does not apply to small governments. Therefore, this direct final rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order (EO) 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the EO to include regulations that 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."

This direct final rule 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, as specified in EO 13132. Thus, EO 13132 does not apply to this rule.

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

Executive Order (EO) 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The direct final rule does not have tribal implications, as specified in EO 13175. This rule 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 EO 13175. Thus, EO 13175 does not apply to this direct final rule.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject

to EO 13045 because it is based solely on technology performance.

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

This rule is not subject to Executive Order (EO) 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under EO 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

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.

EPA has determined that this direct 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. Moreover, the technical and editorial corrections in this direct final rule do not change the level of control required by the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this direct final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this direct final rule in the **Federal Register**. A Major rule 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). This rule will be effective July 15, 2008.

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.

Dated: March 20, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

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

Subpart M—[Amended]

■ 2. Section 63.320 is amended by revising paragraphs (d) and (e) to read as follows:

§ 63.320 Applicability.

* * * * *

(d) Each existing dry-to-dry machine and its ancillary equipment located in a dry cleaning facility that includes only dry-to-dry machines, and each existing transfer machine system and its ancillary equipment, and each new transfer machine system and its ancillary equipment installed between December 9, 1991, and September 22, 1993, as well as each existing dry-to-dry machine and its ancillary equipment, located in a dry cleaning facility that includes both transfer machine system(s) and dry-to-dry machine(s) is exempt from §§ 63.322, 63.323, and 63.324, except §§ 63.322(c), (d), (i), (j), (k), (l), (m), (o)(1), (o)(3) and (o)(5)(i); 63.323(d); and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the total PCE consumption of the dry cleaning facility is less than 530 liters (140 gallons) per year. Consumption is determined according to § 63.323(d).

(e) Each existing transfer machine system and its ancillary equipment, and each new transfer machine system and its ancillary equipment installed between December 9, 1991, and September 22, 1993, located in a dry cleaning facility that includes only transfer machine system(s), is exempt from §§ 63.322, 63.323, and 63.324, except §§ 63.322(c), (d), (i), (j), (k), (l), (m), (o)(1), and (o)(3); 63.323(d); and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the PCE consumption of the dry cleaning facility is less than 760 liters (200 gallons) per year. Consumption is determined according to § 63.323(d).

* * * * *

■ 3. Section 63.323 is amended as follows:

■ a. By revising paragraphs (a)(1) introductory text and (a)(1)(ii).

■ b. By revising paragraph (b) introductory text.

■ c. By revising paragraph (c) introductory text.

§ 63.323 Test methods and monitoring.

(a) * * *

(1) The owner or operator shall monitor on a weekly basis the parameters in either paragraph (a)(1)(i) or (ii) of this section.

* * * * *

(ii) The temperature of the air-perchloroethylene gas-vapor stream on the outlet side of the refrigerated condenser on a dry-to-dry machine, dryer, or reclaimer with a temperature sensor to determine if it is equal to or less than 7.2 °C (45 °F) before the end of the cool-down or drying cycle while the gas-vapor stream is flowing through the condenser. The temperature sensor shall be used according to the manufacturer's instructions and shall be designed to measure a temperature of 7.2 °C (45 °F) to an accuracy of ±1.1 °C (±2 °F).

* * * * *

(b) When a carbon adsorber is used to comply with § 63.322(a)(2) or exhaust is passed through a carbon adsorber immediately upon machine door opening to comply with § 63.322(b)(3), the owner or operator shall measure the concentration of PCE in the exhaust of

the carbon adsorber weekly with a colorimetric detector tube or PCE gas analyzer. The measurement shall be taken while the dry cleaning machine is venting to that carbon adsorber at the end of the last dry cleaning cycle prior to desorption of that carbon adsorber or removal of the activated carbon to determine that the PCE concentration in the exhaust is equal to or less than 100 parts per million by volume. The owner or operator shall:

* * * * *

(c) If the air-PCE gas vapor stream is passed through a carbon adsorber prior to machine door opening to comply with § 63.322(b)(3), the owner or operator of an affected facility shall measure the concentration of PCE in the dry cleaning machine drum at the end of the dry cleaning cycle weekly with a colorimetric detector tube or PCE gas analyzer to determine that the PCE concentration is equal to or less than 300 parts per million by volume. The owner or operator shall:

* * * * *

■ 4. Section 63.324 is amended by revising paragraphs (d)(5), and (d)(6) to read as follows:

§ 63.324 Reporting and recordkeeping requirements.

* * * * *

(d) * * *

(5) The date and monitoring results (temperature sensor or pressure gauge), as specified in § 63.323 if a refrigerated condenser is used to comply with § 63.322(a), (b), or (o); and

(6) The date and monitoring results, as specified in § 63.323, if a carbon adsorber is used to comply with § 63.322(a)(2), or (b)(3).

* * * * *

[FR Doc. E8–6544 Filed 3–31–08; 8:45 am]

BILLING CODE 6560–50–P

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects already existing Federal requirement for state air pollution control agencies and existing LMWC units that are subject to the provisions of 40 CFR part 60, subpart Cb and related subpart Eb. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the section 111(d)/129 plan revision should relevant adverse or critical comments be filed. This rule will be effective June 9, 2008 without further notice unless EPA receives adverse comments by May 8, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the 111(d)/129 plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 9, 2008*. 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: March 31, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for Part 62 continues to read as follows:

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

Subpart V—Maryland

■ 2. Section 62.5110 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 62.5110 Identification of plan.

* * * * *

■ (b) On October 24, 2007, Maryland submitted a revised State plan (Phase II) and related COMAR 26.11.08.01, .02, and .08 amendments as required by 40 CFR part 60, subpart Cb, amended May 10, 2006.

■ 3. Section 62.5112 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 62.5112 Effective date.

* * * * *

■ (b) The plan revision (Phase II) is effective June 9, 2008.

[FR Doc. E8–7347 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 264 and 266

[EPA–HQ–OAR–2004–0022; FRL–8549–4]

RIN 2050–AG35

NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing amendments to the national emission standards for hazardous air pollutants (NESHAP) for hazardous waste combustors, which

EPA promulgated on October 12, 2005. The amendments to the October 2005 final rule clarify several compliance and monitoring provisions, and also correct several omissions and typographical errors in the final rule. We are finalizing the amendments to facilitate compliance and improve understanding of the final rule requirements. This rule does not address issues for which petitioners sought reconsideration. Nor does it address issues raised in EPA's comment solicitation of September 27, 2007.

DATES: The final rule is effective on April 8, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0022. All documents in the docket are listed on *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information the disclosure of which 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 *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, Docket ID No. EPA–HQ–OAR–2004–0022, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The HQ EPA Docket Center telephone number is (202) 566–1742. 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. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Frank Behan at (703) 308–8476, or *behan.frank@epa.gov*, Office of Solid Waste (MC: 5302P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Entities Potentially Affected by This Rule. Categories and entities potentially affected by this rule include:

Category	NAICS code[a]	Potentially affected entities
Petroleum and coal products manufacturing	324	Any entity that combusts hazardous waste as defined in the final rule.
Chemical manufacturing	325	
Cement and concrete product manufacturing	3273	
Other nonmetallic mineral product manufacturing	3279	
Waste treatment and disposal	5622	
Remediation and other waste management services	5629	

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this rule. This table lists examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is affected by this rule, you should examine the applicability criteria in 40 CFR 63.1200. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How Do I Obtain a Copy of This Document and Other Related Information? In addition to being available in the docket, an electronic copy of today's rule will also be available on the on the World Wide Web. Following the Administrator's signature, a copy of this document may be posted at *http://www.epa.gov/hwcmact*. This Web site also provides other information related to the NESHAP for hazardous waste combustors including the NESHAP issued on October 12, 2005 (70 FR 59402).

Judicial Review. Under section 307(b)(1) of the Clean Air Act, judicial review of the 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 June 9, 2008. Section 307(d)(7)(B) of the CAA provides that "[o]nly 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 us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA 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 to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios 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. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final action may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Organization of This Document. The information presented in this preamble is organized as follows:

I. Background

A. What Is the Source of Authority for the Development of NESHAP?

Section 112(c) of the Clean Air Act requires EPA to list categories and subcategories of major sources and area sources of hazardous air pollutants (HAP) and to establish NESHAP for the listed source categories and subcategories. Hazardous waste combustors include incinerators, cement kilns, lightweight aggregate kilns, boilers, and hydrochloric acid production furnaces that burn hazardous waste. EPA's initial list of categories of major and area sources of HAP was published on July 16, 1992 (57 FR 31576). Hazardous waste incinerators, Portland cement manufacturing, clay products manufacturing (including lightweight aggregate kilns), industrial/commercial/institutional boilers and process heaters, and hydrochloric acid production furnaces were among the listed categories of sources. Major sources of HAP are those sources that have the potential to emit at least 10 tons per year of any one HAP or 25 tons per year of any combination of HAP.

B. How Did the Public Participate in Developing the Amendments to the Final Rule?

The final rule was published on October 12, 2005 (70 FR 59402) and codified in 40 CFR part 63, subpart EEE. Following publication of the final rule, two industry trade associations identified a number of typographical errors and suggested several potential compliance and monitoring amendments and clarifications to the rule.[1] On September 6, 2006, we published proposed amendments (71 FR at 52639) to address these issues and sought public comment on the proposed amendments.[2] EPA received comments from five entities. Today's action presents EPA's responses to those comments and promulgates amendments to Subpart EEE of 40 CFR part 63.

II. Summary of the Final Amendments

In today's notice, we are announcing our final action on several amendments to Subpart EEE of 40 CFR part 63. The amendments revise several compliance and monitoring provisions in response to questions and issues raised by entities affected by the rule. The revised provisions are effective immediately, and today's final rule does not change the October 14, 2008 compliance date established by the October 12, 2005 final rule. See also Section III (Time Lines for compliance activities) in today's action. Sources can readily comply with the revised provisions promulgated today within the compliance time frames established by the October 12, 2005 final rule. See § 63.1206(a).

A. Proposed Amendments for Which No Adverse Comments Were Received

In the September 6, 2006 proposal, we proposed several corrections and clarifications to the NESHAP for hazardous waste combustors. 71 FR at 52639–642, 52645–646. We received no adverse comments on the majority of the corrections and clarifications (see Table 1 below). Therefore, we are promulgating those provisions, as proposed, without further discussion.[3] The reader is referred to the September 2006 proposed rule for background on these changes.

TABLE 1.—SUMMARY OF AMENDMENTS FOR WHICH NO ADVERSE COMMENTS WERE RECEIVED

Preamble section in September 2006 proposed rule	Subject of proposed amendment	Code of Federal Register (CFR) section(s) amended
V.A	Sunset Provision for the Interim Standards	63.1203(e), 63.1204(i), 63.1205(e).
V.B	Operating Parameter Limits for Sources with Fabric Filters	63.1206(c)(9).
V.C	Confirmatory Performance Testing Not Required for Sources That Are Not Subject to a Numerical Dioxin/Furan Emission Standard.	63.1207(b)(3)(vi).
V.D	Periodic Performance Test for Phase I Sources	63.1207(d).
V.E	Performance Test Waiver for Sources Subject to Hazardous Waste Thermal Concentration Limits.	63.1207(m).
V.F	Averaging Method When Calculating 12-Hour Rolling Average Thermal Concentration Limits.	63.1209(n)(2)(iii).
V.I	Timing of the Periodic Review of Eligibility for the Health-Based Compliance Alternatives for Total Chlorine.	63.1215(h)(2)(i).
V.K	Mercury Standards for Cement Kilns	63.1220(a)(2) and (b)(2), 63.1209(l)(1)(iii).
V.L	Facilities Operating Under RCRA Interim Status	None. Interpretation of existing regulations (see 71 FR at 52642).
VII.A	Miscellaneous Typographical Errors	63.1206(a)(2) heading, 63.1206(a)(2)(ii)(A), 63.1206(b)(16), 63.1210(b), 63.1215(a)(2), 63.1215(b)(2), 63.1215(b)(3), 63.1215(b)(6)(ii)(C), 63.1215(f)(5)(ii)(A), 63.1217(a)(6)(ii), 63.1217(b)(6)(ii).

[1] See docket items EPA–HQ–OAR–2004–0022–0551 and 0552.

[2] In addition to soliciting comment on the rule amendments discussed in this action, EPA also requested comment on other issues in the September 6, 2006 proposed rule. The other issues related to our response to four petitions for reconsideration that were submitted to the Administrator pursuant to section 307(d)(7)(B) of the Clean Air Act. EPA's final response to the petitions for reconsideration is not included in today's action. See Sections II, III, and IV of the September 2006 notice for additional information on the reconsideration proceedings. Nor does this final rule address any of the issues raised by EPA's solicitation of comment published on September 27, 2007 (72 FR 54875).

[3] Please note, however, that we have revised proposed § 63.1207(d)(2), which prescribes the schedule for confirmatory performance testing, to conform with existing § 63.1207(b)(3) to clarify further that confirmatory performance testing is not required for sources that are not subject to a numerical D/F emission standard: solid fuel boilers and hydrochloric acid production furnaces; lightweight aggregate kilns that are not subject to a numerical dioxin/furan emission standard under § 63.1221; and liquid fuel boilers that are not subject to a numerical dioxin/furan emission standard under § 63.1217.

TABLE 1.—SUMMARY OF AMENDMENTS FOR WHICH NO ADVERSE COMMENTS WERE RECEIVED—Continued

Preamble section in September 2006 proposed rule	Subject of proposed amendment	Code of Federal Register (CFR) section(s) amended
VII.B	Citation Corrections	63.1206(b)(14)(iv), 63.1207(g)(2)(i) and (ii), 63.1209(n)(2)(vii), 63.1215(a)(1)(i), 264.340(b), 266.100(b)(3).
VII.C	Corrections to the NIC Provisions for New Units	63.1212(b)(1) and (b)(3).
VII.D	Clarification of the Applicability of Title V Permit Requirements to Phase 2 Area Sources.	None. Interpretation of existing regulations (see 71 FR at 52646).

We also received no adverse comment on the proposed amendments described in Section V.G (Calculating Rolling Averages for Averaging Periods in Excess of 12 Hours) of the September 6, 2006 preamble citation. That discussion described our intent to simplify the monitoring requirements for sources that select mercury or semivolatile metal feedrate limits averaged over periods greater than 12 hours. As described in the preamble, this would require identical changes to four paragraphs of the regulation: §§ 63.1209(n)(2)(v)(A)(*2*)(*iv*), 63.1209(n)(2)(v)(A)(*3*)(*v*), 63.1209(l)(1)(ii)(B)(*5*), and 63.1209(l)(1)(ii)(C)(*5*). However, corresponding regulatory changes to the latter three paragraphs were inadvertently omitted from the September 2006 proposed rule. In today's rule, we are correcting this oversight by promulgating the language proposed for § 63.1209(n)(2)(v)(A)(*2*)(*iv*) in all four paragraphs.

B. Proposed Amendments for Which Comments Were Received

1. Calculating Rolling Averages

a. *Summary of the Final Action.* We are revising §§ 63.1209(n)(2)(v)(B)(*1*), 63.1209(n)(2)(v)(B)(*2*), and 63.1209(o)(1)(ii)(A)(*3*) as proposed on September 6, 2006. 71 FR at 52640. These changes are intended to clarify that data for demonstrating compliance with feed rate limits of up to a 12-hour rolling average must be updated each minute. In addition, § 63.1209(n)(2)(v)(B)(*1*)(*i*) is modified to confirm that the chromium feed rate limit for boilers burning liquid hazardous waste with a heating value of 10,000 Btu/lb or greater is a 12-hour rolling average limit.

b. *What Are the Responses to Major Comments?*

Comment: We received two comments on this topic. One supported the changes as proposed. The other commenter objected to updating the 12-hour average every minute rather than every hour, arguing that this complicates data management and could require increased data storage.

Response: We believe that complications to data management or increases in data storage requirements, if any, are negligible. Phase I sources—incinerators, cement kilns, and lightweight aggregate kilns—have been complying with 12-hour averages updated each minute for several years without significant problems. Furthermore, data storage is not measurably affected. These continuous monitors are required to record a data point at least once each minute, regardless of the whether the rolling average value for determining compliance is updated each minute or each hour. Consequently, the amount of recorded data is not significantly affected under either approach to calculating the rolling average.

Phase I sources have been required to update their 12-hour rolling average feed rate data each minute ever since the hazardous waste combustor MACT rule was first promulgated in 1999. A "rolling average" was defined in that rule as "the average of all one-minute averages over the averaging period." That definition has remained the same through the interim standards (for Phase I sources) and the replacement standards. We have consistently interpreted the definition to require that a new rolling average be calculated each minute. See, for example, the preamble discussion in the September 30, 1999 rule which says, while discussing how to calculate rolling averages upon initial startup, "Given that the one-hour, and 12-hour rolling averages for limits on various parameters must be updated each minute * * *" 64 FR at 52924.

In the 2004 replacement standards proposed rule, we first introduced the concept of hourly updates to rolling averages, but only in the context of monitoring compliance with annual rolling average feed rate limits. See 69 FR at 21312. At no time did we discuss or propose any change to the long-standing requirement that rolling averages of 12 hours or less be updated each minute. In fact, we reiterated the requirement for one-minute updates in discussing how compliance with the 12-hour thermal feed rate limits would be monitored. In that discussion we said that "For compliance, you would continuously monitor the feed rate of hazardous waste on a 12-hour rolling average updated each minute or, for standards based on normal emissions, on an annual rolling average updated each hour." *Id.* at 21312.

Given that we have consistently required rolling averages of 12 hours or less to be updated each minute and we have never discussed or proposed any changes to that approach, we find ample evidence that the addition of hourly updates for these parameters in the final replacement standards were, as we asserted in the proposed rule, inadvertent. Furthermore, we find no support for the commenter's claim that data management or data storage requirements are significantly affected under either approach. Therefore, we have removed the references to hourly updates, as proposed.

2. Expressing Particulate Matter Standards Using the International System of Units

a. *Summary of the Final Action.* We proposed to revise the particulate matter standards expressed in English units (gr/dscf) in §§ 63.1216 through 63.1221 by converting and expressing the standards using the International System of Units (SI). 71 FR at 52641. However, after considering the comments received in response to the proposed rule, we are not revising the standards as proposed. Thus, we are retaining the format of the particulate matter standards as promulgated in the October 12, 2005 final rule.

b. *What Are the Responses to Major Comments?*

Comment: We received three comments on this topic. One supported revising the particulate matter standards by expressing all particulate matter standards in SI units as proposed. Two other commenters opposed the proposed revisions because converting a standard from gr/dscf to mg/dscm and rounding to two significant figures can

increase (and apparently does for at least one affected source) the stringency of the standard.

Response: Given that the proposed conversion to SI units can increase the stringency of the promulgated standard in some instances, we are not revising the particulate matter standards as proposed. We do not believe the proposed revisions are appropriate because a source currently complying with the standard expressed in English units could find itself suddenly out of compliance if the standard were converted to SI units, after rounding the result to two significant figures. We believe this would be an inappropriate outcome for this "housekeeping" amendment.

3. Corrections to the Notice of Intent To Comply (NIC) Provisions for New Units

a. *Summary of the Final Action.* We proposed several corrections to the NIC regulatory provisions for new units to accurately reflect the time frames for holding the informal public meeting and submitting a final NIC. See 71 FR at 52645–646. Specifically, we made corrections to the time line (Figure 2; 71 FR at 52644), and proposed to revise § 63.1210(b)(3) and (c)(1), which are the core requirements for the informal public meeting and final NIC. We explained that it was our intent to clarify that existing units' NIC deadlines were based upon the effective date of the rule (e.g., "* * * no later than one year following the effective date * * *"), whereas new units" NIC deadlines were based upon a set number of days between NIC compliance activities (e.g., "* * * or 60 days following the informal public meeting"). This was necessary because the final rule effective date has no bearing on new units. We further explained that since the public meetings for the NIC and the RCRA pre-application are to occur simultaneously for new units, we anticipate new units will plan accordingly and work with their permitting authorities to determine the most suitable time to begin the NIC compliance process.

Today we are amending § 63.1210(b)(3) and (c)(1) to accurately reflect the time frames for holding the informal public meeting and submitting a final NIC for new units. However, the amendments are not finalized as proposed, but rather were revised to reflect a comment we received (see below). We are now further subdividing the paragraphs to explicitly differentiate between "existing units" and "new units." Also, to further clarify that new units are subject to the same NIC requirements, we have added a new paragraph (b)(5) to § 63.1212 with respect to the final NIC. While it essentially mirrors § 63.1210(b)(3), we believe it is important to clearly indicate all applicable NIC provisions for new units in § 63.1212.

b. *What Are the Responses to Major Comments?*

Comment: One comment was received in response to the proposed amendments. The commenter noted that the proposed § 63.1210(c)(1) language retains the 10 month deadline, but also requires that the meeting must be held no later than 30 days following the notice. The 30 day advance notice language of § 63.1210(c)(3) was retained. This puts the facility in a position of having to issue the public notice precisely 30 days before the public meeting (i.e., facilities have two 30 day deadlines, one working backward from the meeting date and one working forward from the notice date). The commenter suggested that the requirements for new units and existing units be presented as two separate paragraphs to better represent the timelines for each.

Response: We agree with the commenter. The few words added to § 63.1210(c)(1) do not clearly differentiate between existing and new units' NIC deadlines. The reference in § 63.1210(c)(1) to the "* * * no later than 10 months after the effective date * * *" was intended only for existing units and the proposed reference to "* * * or 30 days following notice * * *" was intended only for new units. The way the paragraph reads gives the appearance that both references may be applicable to all units. Therefore, if one reads the 30 day reference in § 63.1210(c)(1) to also apply to existing units, along with the 30 day reference which was retained in § 63.1210(c)(3), it creates the situation which the commenter correctly identifies.

We have subdivided § 63.1210(c)(1) (as well as § 63.1210(b)(3)) to clearly designate applicability for existing and new units as the commenter suggests. Section 63.1210(c)(1) is revised to require the informal public meeting for new units to be held *no earlier than* 30 days following notice of the informal meeting, as opposed to *no later than* 30 days following the notice. Also, we have revised § 63.1212(b)(4) to state that the informal public meeting must be held *no earlier than* 30 days following notice of the meeting, so that it is consistent with § 63.1210(c)(1). Finally, as noted above, a new paragraph (b)(5) is added to § 63.1212 regarding submission of the final NIC.

C. Corrections to the Startup, Shutdown, and Malfunction Plan Provisions

This action also corrects a ministerial error by EPA that lead to inadvertent revision of § 63.1206(c)(2)(v). In a 2006 final rule amending the Part 63 general provisions, EPA made conforming changes to many individual MACT standards that merely incorporate the startup, shutdown and malfunction (SSM) requirements of the general provisions. 71 FR 20446 (April 20, 2006). In doing so, EPA inadvertently revised the SSM provisions tailored specifically for HWC facilities. Today, we are correcting that inadvertent error. Accordingly, we are revising § 63.1206(c)(2)(v)(A)(*2*) and (c)(2)(v)(B)(*4*) so that they read as they did before the April 20, 2006 revisions.

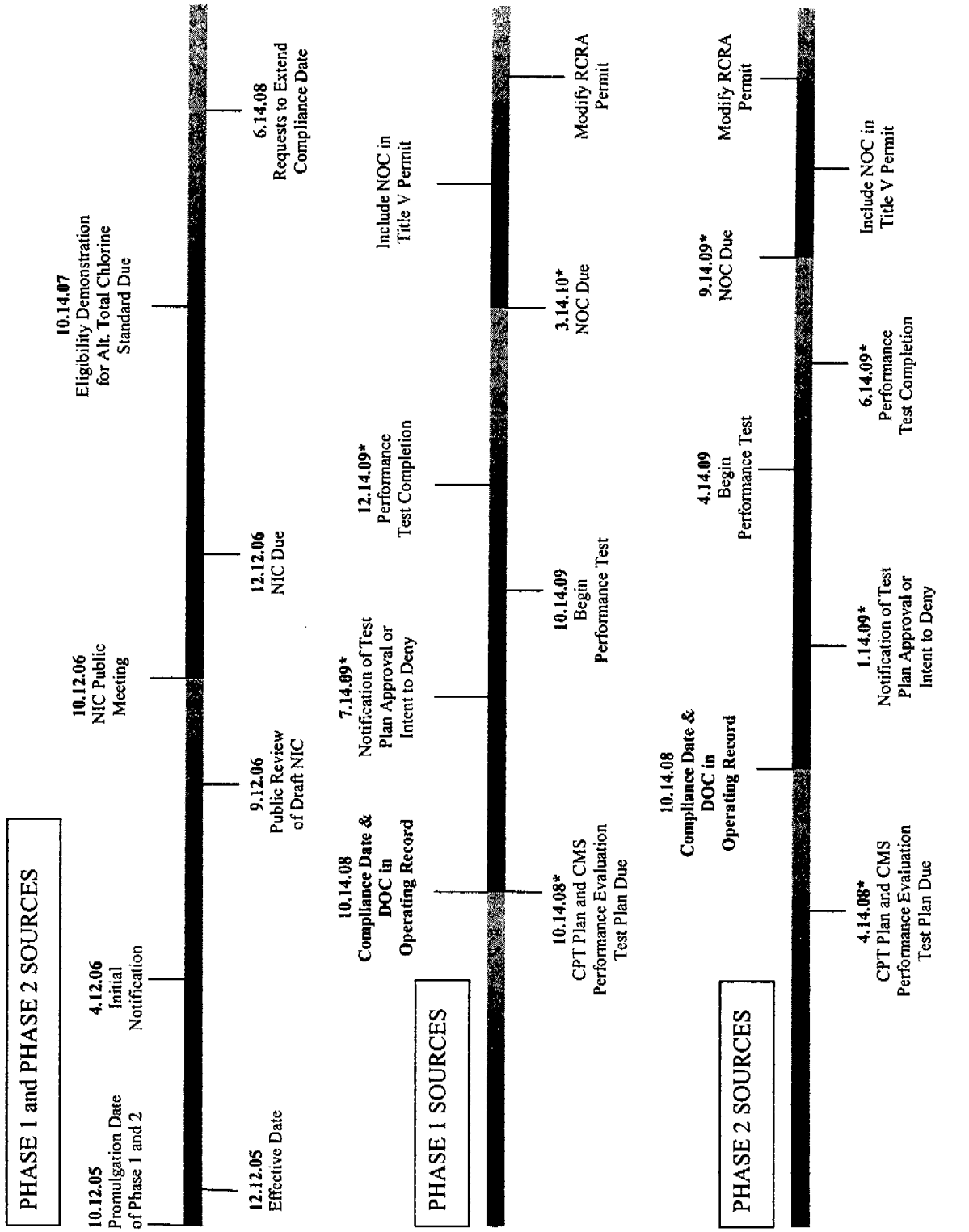
D. Time Lines

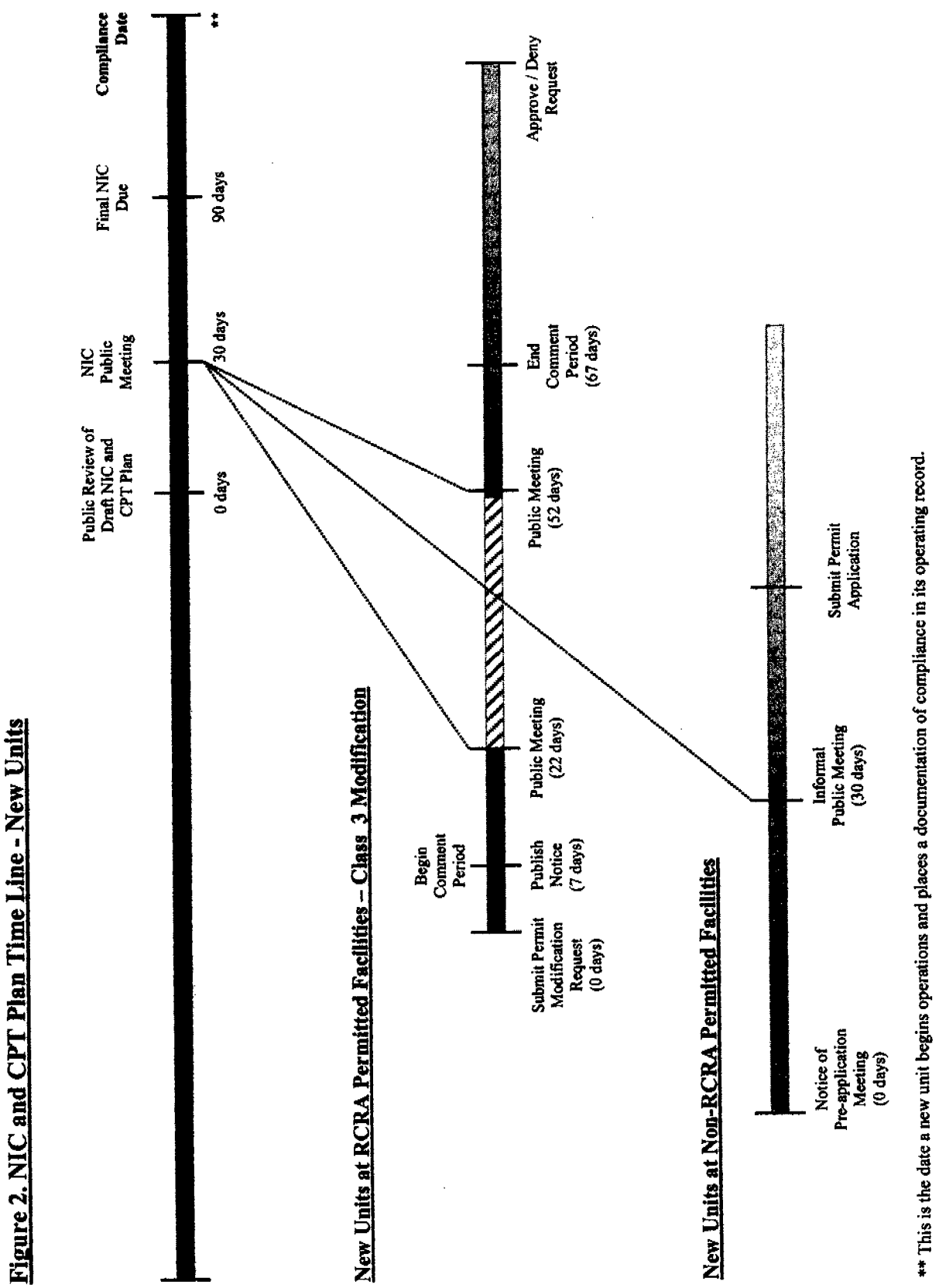
In the September 2006 proposed rule, we noted several errors in the time lines published in the October 12, 2005 final rule. See 70 FR 59524–525 and 71 FR at 52642–644. Consequently, we revised the time lines, Figures 1 and 2, to reflect the correct dates and time frames associated with compliance activities for Phase 1 (i.e., incinerators, cement kilns, and lightweight aggregate kilns) and Phase 2 sources (i.e., liquid and solid fuel boilers and hydrochloric acid production furnaces). In addition, we discussed the time line revisions and why the changes were necessary, as well as providing some clarifying remarks.

We did not receive any public comments on the revised time lines that were published in the proposed rule. For the reader's convenience, we are publishing the time lines again in today's final rule. Please refer to the proposal for the accompanying discussion of the time lines. 71 FR at 52642–643.

BILLING CODE 6560–50–P

Figure 1. Time Line for Phase 1 Replacement Standards and Phase 2 Standards – Existing Sources





** This is the date a new unit begins operations and places a documentation of compliance in its operating record.

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III. Impacts of the Final Rule

A. What facilities are affected by the final amendments?

A description of the affected source categories is discussed in the April 20, 2004 proposed rule. 69 FR at 21207–09. In the October 12, 2005 final rule, we estimated that there are a total of 267 sources subject to the rule requirements, including 116 boilers (104 liquid fuel boilers and 12 solid fuel boilers), 92 on-site incinerators, 25 cement kilns, 15 commercial incinerators, 9 lightweight aggregate kilns, and 10 hydrochloric acid production furnaces. 70 FR at 59530. While we are aware of several changes to the universe of operating hazardous waste combustors, these estimates remain a reasonable representation of existing operating sources.[4]

B. What are the impacts of the final rule?

The rule amendments do not change any of the impacts presented in the preamble to the October 12, 2005 final rule. See 70 FR at 59529–35.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden because there is no additional burden on affected sources as a result of the final rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (see 40 CFR part 9) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0171, EPA ICR number 1773.08. A copy of the OMB approved Information Collection Request (ICR) may be obtained by writing to: Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1700.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. As discussed in the October 12, 2005 final rule (which today's final rule amends), we determined that hazardous waste combustion facilities are not owned by small governmental jurisdictions or nonprofit organizations. 70 FR at 59538. Therefore, in that rule only small businesses were analyzed for small entity impacts (a small entity was defined either by the number of employees or by the dollar amount of sales). We found that few—a total of eight out of 145 facilities—of the sources affected by the October 2005 rule were owned by small businesses. Finally, our analysis indicated that none of these facilities are likely to incur annualized compliance costs greater than one percent of gross annual corporate revenues. Cost impacts were found to range from less than 0.01 percent to 0.46 percent of annual gross corporate revenues. 70 FR at 59538.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. We note that today's final rule does not alter the number or type of small businesses that were discussed in the October 12, 2005 final rule. Additionally today's rule does not have any significant new regulatory requirements as compared to the requirements discussed in the October 12, 2005 final rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially

[4] Given the small size of the lightweight aggregate kiln category, it is worth mentioning that the Solite Cascade plant in Virginia has ceased operations. Prior to closure, this plant operated four kiln sources. See also 70 FR at 59426.

affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This is because today's final rule does not add new requirements that would increase the costs of the original NESHAP for hazardous waste combustors. The NESHAP was published on September 30, 1999, and October 12, 2005, and had aggregated annualized social costs between $50 to $63 million (64 FR at 53022) and $22.6 million (70 FR at 59538), respectively. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this final rule does not significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, this final rule is not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This final rule does not have federalism implications. The final rule does 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, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to the requirements of the final rule and as such would not bear substantial costs of effects. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to today's action. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under EO 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks. Furthermore, this final rule is not considered "economically significant" as defined under EO 12866.

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

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. During the development of the final rule, EPA searched for voluntary consensus standards that might be applicable. EPA adopted the following standards as practical alternatives to specified EPA test methods in the final rule: (1) American Society for Testing and Materials (ASTM) D6735–01, "Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method," and (2) American Society of Mechanical Engineers (ASME) standard QHO–1–2004, "Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators."

Section 63.1208 lists the test methods to determine compliance with the emission standards in the final rule. Under § 63.7(f) of the general provisions, a source may apply to EPA for permission to use alternative test methods in place of any required testing method, performance specification, or procedure.

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

Executive Order 12898 (59 FR 7629 (Feb. 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.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the provisions contained within do not affect the level of protection to human health of the environment. The final amendments to the hazardous waste combustor NESHAP (40 CFR part 63 subpart EEE) are comprised of clarifications and revisions to current compliance and monitoring provisions that do not affect the current level of control at facilities subject to these rules.

K. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule 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). This final rule will be effective on April 8, 2008.

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: March 26, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSIONS 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 63.1203 is amended by adding paragraph (e) to read as follows:

§ 63.1203 What are the standards for hazardous waste incinerators that are effective until compliance with the standards under § 63.1219?

* * * * *

(e) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1219 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1219 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1219 pursuant to § 63.1206 and any extensions granted there under.

■ 3. Section 63.1204 is amended by adding paragraph (i) to read as follows:

§ 63.1204 What are the standards for hazardous waste burning cement kilns that are effective until compliance with the standards under § 63.1220?

* * * * *

(i) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1220 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1220 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1220 pursuant to § 63.1206 and any extensions granted there under.

■ 4. Section 63.1205 is amended by adding paragraph (e) to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns that are effective until compliance with the standards under § 63.1221?

* * * * *

(e) The provisions of this section no longer apply after any of the following dates, whichever occurs first:

(1) The date that your source begins to comply with § 63.1221 by placing a Documentation of Compliance in the operating record pursuant to § 63.1211(c);

(2) The date that your source begins to comply with § 63.1221 by submitting a Notification of Compliance pursuant to § 63.1210(b); or

(3) The date for your source to comply with § 63.1221 pursuant to § 63.1206 and any extensions granted there under.

■ 5. Section 63.1206 is amended as follows:

■ a. By revising paragraph (a)(2) heading and the first sentence of paragraph (a)(2)(ii)(A).

■ b. By revising paragraphs (b)(14)(iv) and (b)(16) introductory text.

■ c. By revising paragraphs (c)(2)(v)(A)(*2*), (c)(2)(v)(B)(*4*), and (c)(9) introductory text.

§ 63.1206 When and how must you comply with the standards and operating requirements?

(a) * * *

(2) *Compliance date for solid fuel boilers, liquid fuel boilers, and hydrochloric acid production furnaces that burn hazardous waste for standards under §§ 63.1216, 63.1217, and 63.1218.*

* * * * *

(ii) * * * (A) If you commenced construction or reconstruction of your hazardous waste combustor after April 20, 2004, you must comply with the new source emission standards of this subpart by the later of October 12, 2005, or the date the source starts operations, except as provided by paragraph (a)(2)(ii)(B) of this section. * * *

* * * * *

(b) * * *

(14) * * *

(iv) *Operating limits.* Semivolatile and low volatile metal operating parameter limits must be established to ensure compliance with the alternative emission limitations described in paragraphs (b)(14)(ii) and (iii) of this section pursuant to § 63.1209(n), except that semivolatile metal feedrate limits apply to lead, cadmium, and selenium, combined, and low volatile metal feedrate limits apply to arsenic, beryllium, chromium, antimony, cobalt, manganese, and nickel, combined.

* * * * *

(16) Compliance with subcategory standards for liquid fuel boilers. You must comply with the mercury, semivolatile metals, low volatile metals, and hydrogen chloride and chlorine standards for liquid fuel boilers under § 63.1217 as follows:

* * * * *

(c) * * *

(2) * * *

(v) * * *

(A) * * *

(2) Although the automatic waste feed cutoff requirements continue to apply during a malfunction, an exceedance of an emission standard monitored by a CEMS or COMS or operating limit specified under § 63.1209 is not a violation of this subpart if you take the corrective measures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(B) * * *

(4) Although the automatic waste feed cutoff requirements of this paragraph apply during startup and shutdown, an exceedance of an emission standard or operating limit is not a violation of this subpart if you comply with the operating procedures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(9) *Particulate matter detection system requirements.* If you combustor is equipped with an electrostatic precipitator or ionizing wet scrubber and you elect not to establish under § 63.1209(m)(1)(iv) site-specific control device operating parameter limits that are linked to the automatic waste feed cutoff system under paragraph (c)(3) of this section, or your combustor is equipped with a fabric filter and you elect to use a particulate matter detection system pursuant to paragraph (c)(8)(i)(B) of this section, you must continuously operate a particulate matter detection system that meets the specifications and requirements of paragraphs (c)(9)(i) through (iii) of this section and you must comply with the corrective measures and notification requirements of paragraphs (c)(9)(iv) through (v) of this section.

* * * * *

■ 6. Section 63.1207 is amended as follows:

■ a. By adding paragraph (b)(3)(vi).

■ b. By revising paragraphs (d)(1), (d)(2), and (d)(4).

■ c. By revising the first sentence of paragraphs (g)(2)(i) and (g)(2)(ii).

■ d. By revising paragraph (m).

§ 63.1207 What are the performance testing requirements?

* * * * *

(b) * * *

(3) * * *

(vi) Sources that are required to perform the one-time dioxin/furan test pursuant to paragraph (b)(3) of this section are not required to perform confirmatory performance tests.

* * * * *

(d) * * *

(1) *Comprehensive performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence testing no later than 61 months after the date of commencing the previous comprehensive performance test used to show compliance with §§ 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, or 63.1221. If you submit data in lieu of the initial performance test, you must commence the subsequent comprehensive performance test within 61 months of commencing the test used to provide the data in lieu of the initial performance test.

(2) *Confirmatory performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence confirmatory performance testing no later than 31 months after the date of commencing the previous comprehensive performance test used to show compliance with §§ 63.1217, 63.1219, 63.1220, or 63.1221. If you submit data in lieu of the initial performance test, you must commence the initial confirmatory performance test within 31 months of the date six months after the compliance date. To ensure that the confirmatory test is conducted approximately midway between comprehensive performance tests, the Administrator will not approve a test plan that schedules testing within 18 months of commencing the previous comprehensive performance test.

* * * * *

(4) *Applicable testing requirements under the interim standards.* (i) *Waiver of periodic comprehensive performance tests.* Except as provided by paragraph (c)(2) of this section, you must conduct only an initial comprehensive performance test under the interim standards (*§§ 63.1203 through 63.1205*); all subsequent comprehensive performance testing requirements are waived under the interim standards. The provisions in the introductory text to paragraph (d) and in paragraph (d)(1) of this section apply only to tests used to demonstrate compliance with the replacement standards promulgated on or after October 12, 2005.

(ii) *Waiver of confirmatory performance tests.* You are not required to conduct a confirmatory test under the interim standards (*§§ 63.1203 through 63.1205*). The confirmatory testing requirements in the introductory text to paragraph (d) and in paragraph (d)(2) of this section apply only after you have demonstrated compliance with the replacement standards promulgated on or after October 12, 2005.

* * * * *

(g) * * *

(2) * * *

(i) Carbon monoxide (or hydrocarbon) CEMS emissions levels must be within the range of the average value to the maximum value allowed, except as provided by paragraph (g)(2)(v) of this section. * * *

(ii) Each operating limit (specified in § 63.1209) established to maintain compliance with the dioxin/furan emission standard must be held within the range of the average value over the previous 12 months and the maximum or minimum, as appropriate, that is allowed, except as provided by paragraph (g)(2)(v) of this section. * * *

* * * * *

(m) *Waiver of performance test.* You are not required to conduct performance tests to document compliance with the mercury, semivolatile metals, low volatile metals, or hydrogen chloride/chlorine gas emission standards under the conditions specified in paragraphs (m)(1) or (m)(2) of this section. The waiver provisions of this paragraph apply in addition to the provisions of § 63.7(h).

(1) *Emission standards based on exhaust gas flow rate.* (i) You are deemed to be in compliance with an emission standard based on the volumetric flow rate of exhaust gas (i.e. μg/dscm or ppmv) if the twelve-hour rolling average maximum theoretical emission concentration (MTEC) determined as specified below does not exceed the emission standard:

(A) Determine the feedrate of mercury, semivolatile metals, low volatile metals, or total chlorine and chloride from all feedstreams;

(B) Determine the stack gas flowrate; and

(C) Calculate a MTEC for each standard assuming all mercury, semivolatile metals, low volatile metals, or total chlorine (organic and inorganic) from all feedstreams is emitted;

(ii) To document compliance with this provision, you must:

(A) Monitor and record the feedrate of mercury, semivolatile metals, low volatile metals, and total chlorine and chloride from all feedstreams according to § 63.1209(c);

(B) Monitor with a CMS and record in the operating record the gas flowrate (either directly or by monitoring a surrogate parameter that you have correlated to gas flowrate);

(C) Continuously calculate and record in the operating record the MTEC under the procedures of paragraph (m)(1)(i) of this section; and

(D) Interlock the MTEC calculated in paragraph (m)(1)(i)(C) of this section to the AWFCO system to stop hazardous waste burning when the MTEC exceeds the emission standard.

(iii) in lieu of the requirement in paragraphs (m)(1)(ii)(C) and (D) of this section, you may:

(A) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury, semivolatile metals, low volatile metals, and/or total chlorine and chloride from all feedstreams that ensures the MTEC as calculated in paragraph (m)(1)(i)(C) of this section is below the applicable emission standard; and

(B) Interlock the minimum gas flowrate limit and maximum feedrate limit of paragraph (m)(1)(iii)(A) of this section to the AWFCO system to stop hazardous waste burning when the gas flowrate or mercury, semivolatile metals, low volatile metals, and/or total chlorine and chloride feedrate exceeds the limits of paragraph (m)(1)(iii)(A) of this section.

(2) *Emission standards based on hazardous waste thermal concentration.* (i) You are deemed to be in compliance with an emission standard specified on a hazardous waste thermal concentration basis (i.e., pounds emitted per million Btu of heat input) if the HAP thermal concentration in the waste feed does not exceed the allowable HAP thermal concentration emission rate.

(ii) To document compliance with this provision, you must:

(A) Monitor and record the feedrate of mercury, semivolatile metals, low volatile metals, and total chlorine and chloride from all hazardous waste feedstreams in accordance with § 63.1209(c);

(B) Determine and record the higher heating value of each hazardous waste feed;

(C) Continuously calculate and record the thermal feed rate of all hazardous waste feedstreams by summing the products of each hazardous waste feed rate multiplied by the higher heating value of that hazardous waste;

(D) Continuously calculate and record the total HAP thermal feed concentration for each constituent by dividing the HAP feedrate determined in paragraph (m)(2)(ii)(A) of this section by the thermal feed rate determined in paragraph (m)(2)(ii)(C) of this section for all hazardous waste feedstreams;

(E) Interlock the HAP thermal feed concentration for each constituent with the AWFCO to stop hazardous waste feed when the thermal feed concentration exceeds the applicable thermal emission standard.

(3) When you determine the feedrate of mercury, semivolatile metals, low volatile metals, or total chlorine and chloride for purposes of this provision, except as provided by paragraph (m)(4) of this section, you must assume that the analyte is present at the full detection limit when the feedstream analysis determines that the analyte in not detected in the feedstream.

(4) Owners and operators of hazardous waste burning cement kilns and lightweight aggregate kilns may assume that mercury is present in raw material at half the detection limit when the raw material feedstream analysis determines that mercury is not detected.

(5) You must state in the site-specific test plan that you submit for review and approval under paragraph (e) of this section that you intend to comply with the provisions of this paragraph. You must include in the test plan documentation that any surrogate that is proposed for gas flowrate adequately correlates with the gas flowrate.

■ 7. Section 63.1209 is amended as follows:

■ a. By revising paragraphs (l)(1)(ii)(B)(*5*) and (l)(1)(ii)(C)(*5*).

■ b. By revising paragraphs (l)(1)(iii)(B) and (l)(1)(iii)(C) introductory text.

■ c. By revising paragraphs (l)(1)(iii)(D)(*1*), and (l)(1)(iii)(D)(*2*).

■ d. By revising paragraph (n)(2)(iii)(A).

■ e. By revising paragraphs (n)(2)(v)(A)(*2*)(*iv*) and (n)(2)(v)(A)(*3*)(*v*)

■ f. By revising paragraphs (n)(2)(v)(B)(*1*)(*i*), (n)(2)(v)(B)(*1*)(*ii*), and (n)(2)(v)(B)(*2*).

■ g. By revising the first sentence of paragraph (n)(2)(vii) introductory text.

■ h. By revising paragraph (o)(1)(ii)(A)(*3*).

§ 63.1209 What are the monitoring requirements?

* * * * *

(l) * * *

(1) * * *

(ii) * * *

(B) * * *

(*5*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(C) * * *

(*5*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(iii) * * *

(B) When complying with the emission standards under §§ 63.1204 and 63.1220(a)(2)(ii)(A) and (b)(2)(ii)(A), you must establish a 12-hour rolling average limit for the feedrate of mercury in all feedstreams as the average of the test run averages;

(C) Except as provided by paragraph (l)(1)(iii)(D) of this section, when complying with the hazardous waste maximum theoretical emission concentration (MTEC) under § 63.1220(a)(2)(ii)(B) and (b)(2)(ii)(B), you must:

* * * * *

(D) * * *

(*1*) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury from all hazardous waste feedstreams that ensures the MTEC calculated in paragraph (l)(1)(iii)(C)(*4*) of this section is below the operating requirement under paragraphs §§ 63.1220(a)(2)(ii)(B) and (b)(2)(ii)(B); and

(*2*) Initiate an automatic waste feed cutoff that immediately and automatically cuts off the hazardous waste feed when either the gas flowrate or mercury feedrate exceeds the limits identified in paragraph (l)(1)(iii)(D)(*1*) of this section.

* * * * *

(n) * * *

(2) * * *

(iii) * * * (A) When complying with the emission standards under § 63.1220(a)(3)(i), (a)(4)(i), (b)(3)(i), and (b)(4)(i), you must establish 12-hour rolling average feedrate limits for semivolatile and low volatile metals as the thermal concentration of semivolatile metals or low volatile metals in all hazardous waste feedstreams. You must calculate hazardous waste thermal concentrations for semivolatile metals and low volatile metals for each run as the total mass feedrate of semivolatile metals or low volatile metals for all hazardous waste feedstreams divided by the total heat

input rate for all hazardous waste feedstreams. The 12-hour rolling average feedrate limits for semivolatile metals and low volatile metals are the average of the test run averages, calculated on a thermal concentration basis, for all hazardous waste feeds.

* * * * *

(v) * * *

(A) * * *

(*2*) * * *

(*iv*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

* * * * *

(*3*) * * *

(*v*) If you select an averaging period for the feedrate limit that is greater than a 12-hour rolling average, you must calculate the initial rolling average as though you had selected a 12-hour rolling average, as provided by paragraph (b)(5)(i) of this section. Thereafter, you must calculate rolling averages using either one-minute or one-hour updates. Hourly updates shall be calculated using the average of the one-minute average data for the preceding hour. For the period beginning with initial operation under this standard until the source has operated for the full averaging period that you select, the average feedrate shall be based only on actual operation under this standard.

(B) * * *

(*1*) * * * (*i*) The 12-hour rolling average feedrate limit is a hazardous waste thermal concentration limit expressed as pounds of chromium in all hazardous waste feedstreams per million Btu of hazardous waste fed to the boiler. You must establish the 12-hour rolling average feedrate limit as the average of the test run averages.

(*ii*) You must comply with the hazardous waste chromium thermal concentration limit by determining the feedrate of chromium in all hazardous waste feedstreams (lb/hr) and the hazardous waste thermal feedrate (MMBtu/hr) at least once each minute as [hazardous waste chromium feedrate (lb/hr)/hazardous waste thermal feedrate (MMBtu/hr)].

(*2*) *Boilers that feed hazardous waste with a heating value less than 10,000 Btu/lb.* You must establish a 12-hour rolling average limit for the total feedrate (lb/hr) of chromium in all feedstreams as the average of the test run averages.

* * * * *

(vii) *Extrapolation of feedrate levels.* In lieu of establishing feedrate limits as specified in paragraphs (n)(2)(ii) through (vi) of this section, you may request as part of the performance test plan under §§ 63.7(b) and (c) and §§ 63.1207(e) and (f) to use the semivolatile metal and low volatile metal feedrates and associated emission rates during the comprehensive performance test to extrapolate to higher allowable feedrate limits and emission rates. * * *

* * * * *

(o) * * *

(1) * * *

(ii) * * *

(A) * * *

(*3*) You must comply with the feedrate limit by determining the mass feedrate of hazardous waste feedstreams (lb/hr) at least once a minute and by knowing the chlorine content (organic and inorganic, lb of chlorine/lb of hazardous waste) and heating value (Btu/lb) of hazardous waste feedstreams at all times to calculate a 1-minute average feedrate measurement as [hazardous waste chlorine content (lb of chlorine/lb of hazardous waste feed)/ hazardous waste heating value (Btu/lb of hazardous waste)]. You must update the rolling average feedrate each hour with this 60-minute average feedrate measurement.

* * * * *

■ 8. Section 63.1210 is amended by revising paragraphs (b) introductory text, (b)(3), and (c)(1) to read as follows:

§ 63.1210 What are the notification requirements?

* * * * *

(b) *Notification of intent to comply (NIC).* These procedures apply to sources that have not previously complied with the requirements of paragraphs (b) and (c) of this section, and to sources that previously complied with the NIC requirements of §§ 63.1210 and 63.1212(a), which were in effect prior to October 11, 2000, that must make a technology change requiring a Class 1 permit modification to meet the standards of §§ 63.1219, 63.1220, and 63.1221.

* * * * *

(3) You must submit the final NIC to the Administrator:

(i) *Existing units.* No later than one year following the effective date of the emission standards of this subpart; or

(ii) *New units.* No later than 60 days following the informal public meeting.

(c) * * * (1) Prior to the submission of the NIC to the permitting agency and:

(i) *Existing units.* No later than 10 months after the effective date of the emission standards of this subpart, you must hold at least one informal meeting with the public to discuss the anticipated activities described in the draft NIC for achieving compliance with the emission standards of this subpart. You must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(ii) *New units.* No earlier than thirty (30) days following notice of the informal public meeting, you must hold at least one informal meeting with the public to discuss the anticipated activities described in the draft NIC for achieving compliance with the emission standards of this subpart. You must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

* * * * *

■ 9. Section 63.1212 is amended by revising paragraphs (b)(1), (b)(3), and (b)(4) and adding paragraph (b)(5) to read as follows:

§ 63.1212 What are the other requirements pertaining to the NIC?

* * * * *

(b) * * *

(1) Prepare a draft NIC pursuant to § 63.1210(b) and make it available to the public upon issuance of the notice of public meeting pursuant to § 63.1210(c)(3);

* * * * *

(3) Provide notice to the public of a pre-application meeting pursuant to § 124.31 of this chapter or notice to the public of a permit modification request pursuant to § 270.42 of this chapter;

(4) Hold an informal public meeting [pursuant to § 63.1210(c)(1) and (c)(2)] no earlier than 30 days following notice of the NIC public meeting and notice of the pre-application meeting or notice of the permit modification request to discuss anticipated activities described in the draft NIC and pre-application or permit modification request for achieving compliance with the emission standards of this subpart; and

(5) Submit a final NIC pursuant to § 63.1210(b)(3).

* * * * *

■ 10. Section 63.1215 is amended as follows:

■ a. By revising paragraph (a)(1)(i).

■ b. By revising the definitions of "1-Hour Average HCl-Equivalent Emission Rate" and "1-Hour Average HCl-Equivalent Emission Rate Limit" in paragraph (a)(2).
■ c. By revising paragraphs (b)(2), (b)(3), and (b)(6)(ii)(C).
■ d. By revising paragraph (f)(5)(ii)(A).
■ e. By revising paragraph (h)(2)(i).

§ 63.1215 What are health-based compliance alternatives for total chlorine?

* * * * *

(a) * * *

(1) * * *

(i) Identify a total chlorine emission concentration (ppmv) expressed as chloride (Cl(−)) equivalent for each on site hazardous waste combustor. You may select total chlorine emission concentrations as you choose to demonstrate eligibility for the risk-based limits under this section, except as provided by paragraph (b)(7) of this section;

* * * * *

(2) * * *

1–Hour Average HCl-Equivalent Emission Rate means the HCl-equivalent emission rate (lb/hr) determined by equating the toxicity of chlorine to HCl using aRELs as the health risk metric for acute exposure.

1–Hour Average HCl-Equivalent Emission Rate Limit means the HCl-equivalent emission rate (lb/hr) determined by equating the toxicity of chlorine to HCl using aRELs as the health risk metric for acute exposure and which ensures that maximum 1-hour average ambient concentrations of HCl-equivalents do not exceed a Hazard Index of 1.0, rounded to the nearest tenths decimal place (0.1), at an off-site receptor location.

* * * * *

(b) * * *

(2) *Annual average rates.* You must calculate annual average toxicity-weighted HCl-equivalent emission rates for each combustor as follows:

$$ER_{LTtw} = ER_{HCl} + ER_{Cl_2} \times (RfC_{HCl}/RfC_{Cl_2})$$

Where:

ER_{LTtw} is the annual average HCl toxicity-weighted emission rate (HCl-equivalent emission rate) considering long-term exposures, lb/hr

ER_{HCl} is the emission rate of HCl in lbs/hr

ER_{Cl_2} is the emission rate of chlorine in lbs/hr

RfC_{HCl} is the reference concentration of HCl

RfC_{Cl_2} is the reference concentration of chlorine

(3) *1-hour average rates.* You must calculate 1-hour average toxicity-weighted HCl-equivalent emission rates for each combustor as follows:

$$ER_{STtw} = ER_{HCl} + ER_{Cl_2} \times (aREL_{HCl}/aREL_{Cl_2})$$

Where:

ER_{STtw} is the 1-hour average HCl-toxicity-weighted emission rate (HCl-equivalent emission rate) considering 1-hour (short-term) exposures, lb/hr

ER_{HCl} is the emission rate of HCl in lbs/hr

ER_{Cl_2} is the emission rate of chlorine in lbs/hr

$aREL_{HCl}$ is the aREL for HCl

$aREL_{Cl_2}$ is the aREL for chlorine

* * * * *

(6) * * *

(ii) * * *

(C) You must calculate the 1-hour average HCl-equivalent emission rate using these HCl and Cl_2 emission rates and the equation in paragraph (b)(3) of this section.

* * * * *

(f) * * *

(5) * * *

(ii) * * *

(A) You must determine your chlorine emissions to be the higher of the value measured by Method 26/26A as provided in appendix A–8, part 60 of this chapter, or an equivalent method, or the value calculated by the difference between the combined hydrogen chloride and chlorine levels measured by Method 26/26A as provided in appendix A–8, part 60 of this chapter, or an equivalent method, and the hydrogen chloride measurement from EPA Method 320/321 as provided in appendix A, part 63 of this chapter, or ASTM D 6735–01 as described under § 63.1208(b)(5)(i)(C), or an equivalent method.

* * * * *

(h) * * *

(2) * * *

(i) *Proactive review.* You must submit for review and approval with each comprehensive performance test plan either a certification that the information used in your eligibility demonstration has not changed in a manner that would decrease the annual average or 1-hour average HCl-equivalent emission rate limit, or a revised eligibility demonstration.

* * * * *

■ 11. Section 63.1217 is amended by revising paragraphs (a)(6)(ii) and (b)(6)(ii) to read as follows:

§ 63.1217 What are the standards for liquid fuel boilers that burn hazardous waste?

(a) * * *

(6) * * *

(ii) When you burn hazardous waste with an as-fired heating value of 10,000 Btu/lb or greater, emissions in excess of 5.1×10^{-2} lbs combined emissions of hydrogen chloride and chlorine gas attributable to the hazardous waste per million Btu heat input from the hazardous waste;

* * * * *

(b) * * *

(6) * * *

(ii) When you burn hazardous waste with an as-fired heating value of 10,000 Btu/lb or greater, emissions in excess of $5.1 \times^{-2}$ lbs combined emissions of hydrogen chloride and chlorine gas attributable to the hazardous waste per million Btu heat input from the hazardous waste;

* * * * *

■ 12. Section 63.1220 is amended by revising paragraphs (a)(2)(ii) and (b)(2)(ii) to read as follows:

§ 63.1220 What are the replacement standards for hazardous waste burning cement kilns?

(a) * * *

(2) * * *

(ii) Either:

(A) Emissions in excess of 120 μg/dscm, corrected to 7 percent oxygen, or

(B) A hazardous waste feed maximum theoretical emission concentration (MTEC) in excess of 120 μg/dscm;

* * * * *

(b) * * *

(2) * * *

(ii) Either:

(A) Emissions in excess of 120 μg/dscm, corrected to 7 percent oxygen, or

(B) A hazardous waste feed maximum theoretical emission concentration (MTEC) in excess of 120 μg/dscm;

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 13. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

■ 14. Section 264.340 is amended as follows:
■ a. By revising the first sentence of paragraph (b)(1) and paragraph (b)(3).
■ b. By removing paragraph (b)(5).

§ 264.340 Applicability.

* * * * *

(b) * * *

(1) Except as provided by paragraphs (b)(2) through (b)(4) of this section, the standards of this part do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates

compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter. * * *

* * * * *

(3) The particulate matter standard of § 264.343(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard under §§ 63.1206(b)(14) and 63.1219(e) of this chapter.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 15. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

§ 266.100 [Amended]

■ 16. Section 266.100 is amended by redesignating the second paragraph (b)(3)(ii) as (b)(3)(iii).

[FR Doc. E8–6667 Filed 4–7–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 071030628–8482–02]

RIN 0648–AV84

Endangered and Threatened Wildlife; Sea Turtle Conservation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to clarify the existing sea turtle conservation requirements for sea scallop dredge vessels entering waters south of 41°9.0′ N. latitude from May 1 through November 30 each year and to add a transiting provision to the requirements. Any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters south of 41°9.0′ N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone (EEZ) must have a chain mat on each dredge, unless the terms of the transiting provision are met. The chain-mat modified dredge is necessary to help reduce mortality and injury to endangered and threatened sea turtles in scallop dredge gear and to conserve sea turtles listed under the Endangered Species Act (ESA). This current action addresses a procedural error in the original rulemaking to require chain mats on scallop dredge gear, clarifies the existing requirements, and adds a transiting provision to the regulations. Any incidental take of threatened sea turtles in sea scallop dredge gear in compliance with this gear modification requirement and all other applicable requirements will be exempted from the ESA's take prohibition.

DATES: Effective May 8, 2008.

ADDRESSES: Copies of the Environmental Assessment (EA) and Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this final rule may be obtained by writing to Ellen Keane, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ellen Keane (ph. 978–281–9300 x6526, fax 978–281–9394, e-mail *ellen.keane@noaa.gov*) or Barbara Schroeder (ph. 301–713–2322, fax 301–427–2522, e-mail *barbara.schroeder@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) sea turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico that are listed as endangered. Due to the inability to distinguish between these populations of green turtles away from the nesting beach, NMFS considers green sea turtles endangered wherever they occur in U.S. waters. Kemp's ridley, hawksbill, loggerhead, and green sea turtles are hard-shelled sea turtles. The incidental take, both lethal and non-lethal, of loggerhead, Kemp's ridley, and unidentified hard-shelled sea turtles has been documented in the sea scallop dredge fishery, as well as a non-lethal take of a green sea turtle (NEFSC FSB, Observer Database). In addition, an unconfirmed take of a leatherback sea turtle was reported during the experimental fishery to test the chain-mat modified dredge gear (DuPaul *et al.*, 2004).

This action is being taken under the ESA provisions authorizing the issuance of regulations to conserve threatened species and for enforcement purposes (sections 4(d) and 11(f), respectively). The requirement to use chain-mat modified dredge gear is necessary to provide for the conservation of threatened loggerhead sea turtles, and will have ancillary benefits for other sea turtle species that have been taken in the sea scallop dredge fishery, albeit to a lesser extent than loggerheads. Under the ESA and its implementing regulations, taking endangered sea turtles—even incidentally—is prohibited. The incidental take of endangered species may only legally be exempted by an incidental take statement (ITS) or an incidental take permit issued pursuant to section 7 or 10 the ESA, respectively. Existing sea turtle conservation regulations at 50 CFR 223.206(d) exempt fishing activities and scientific research from the prohibition on takes of threatened species under certain conditions. Any incidental take of threatened loggerhead sea turtles in sea scallop dredge gear in compliance with this gear modification requirement and other applicable requirements is exempted from the prohibition against takes.

The chain-mat modified dredge is expected to benefit sea turtles following an interaction in the water column. Based on the available information, NMFS has determined that the use of a chain-mat modified dredge will prevent most captures of sea turtles in the dredge bag as well as any ensuing injuries as a result of such capture (e.g., crushing in the dredge bag, crushing on deck, etc.). However, NMFS has made the conservative assumption that a turtle in a bottom interaction sustains significant injuries on the bottom, so, under this conservative assumption, there would not be a benefit from the chain mat for bottom interactions. This assumption, however, may be too conservative in that it is possible (although not likely) that turtles in a bottom interaction only receive minor injuries. In the unlikely scenario of a turtle receiving only minor injuries following a bottom interaction, the chain mat modification would prevent significant injuries that result from capture in the dredge bag (i.e, injuries

Dated: April 4, 2008.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

[FR Doc. E8–8733 Filed 4–22–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0138, FRL–8557–1]

RIN 2060–AO99

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on the national emission standards for hazardous air pollutants for organic liquids distribution (non-gasoline), which EPA promulgated on February 3, 2004, and amended on July 28, 2006. In this action, EPA is clarifying combustion control device compliance requirements, certain storage tank control compliance dates, and vapor balance system monitoring requirements. In addition, EPA is correcting typographical errors found in the July 28, 2006, final rule amendments.

DATES: This direct final rule is effective on July 22, 2008, without further notice, unless EPA receives adverse comment by June 9, 2008. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule, or the relevant section of this rule, will not take effect.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing concerning this rulemaking by May 5, 2008, we will hold a public hearing on May 8, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0138, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* In person or by courier, deliver your comments to: Air and Radiation Docket, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies. We request that a separate copy also be sent to the contact persons listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0138. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed either in the *http://www.regulations.gov* index or in the legacy docket, Docket No. A–98–13. 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, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA West Building, Room 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 Air and Radiation Docket is (202) 566–1742.

Public Hearing: If you are interested in attending the public hearing, contact Ms. Janet Eck at (919) 541–7946 to verify that a hearing will be held. If a public hearing is held, it will be held at 10 a.m. at EPA's Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby. If no one contacts EPA requesting to speak at a public hearing concerning this rule by May 5, 2008 this hearing will be cancelled without further notice.

FOR FURTHER INFORMATION CONTACT: *General and Technical Information:* **MR. STEPHEN SHEDD, OFFICE OF AIR QUALITY PLANNING AND STANDARDS, SECTOR POLICIES AND PROGRAMS DIVISION, COATINGS AND CHEMICALS GROUP (E143–01), EPA, RESEARCH TRIANGLE PARK, NC 27711, TELEPHONE: (919) 541–5397, FACSIMILE NUMBER: (919) 685–3195, E-MAIL ADDRESS:** *shedd.steve@epa.gov. Compliance Information:* Ms. Marcia Mia, Office of Compliance, Air Compliance Branch (2223A), EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (202) 564–7042, facsimile number: (202) 564–0050, e-mail address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

EPA is publishing this rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comment because the changes being implemented clarify the application of the rule, make the rule consistent with other regulations with no loss in its effectiveness in achieving emission reductions, and correct typographical and format errors. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule for these revisions if adverse comments are received on this direct final rule. If we receive adverse comment on a distinct section of this rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on

any other provision, unless we determine that it would not be appropriate to promulgate those provisions due to their being affected by the provisions for which we receive any adverse comments. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

Submitting CBI.

Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Categories and entities potentially regulated by this action include:

Category	NAICS* code	Examples of regulated entities
Industry	325211, 325192, 325188, 32411, 49311, 49319, 48611, 42269, 42271.	Operations at major sources that transfer organic liquids into or out of the plant site, including: liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government		Federal agency facilities that operate any of the types of entities listed under the "industry" category in this table.

*North American Industry Classification System/Considered to be the primary industrial codes for the plant sites with OLD operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this final rule. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR part 63, subpart EEEE. If you have any questions regarding the applicability of this final rule to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Outline: The information presented in this preamble is organized as follows:

I. Background

On February 3, 2004 (69 FR 5063), EPA promulgated the National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) (OLD NESHAP) (40 CFR part 63, subpart EEEE) pursuant to section 112 of the Clean Air Act (CAA). In response to several petitions for administrative reconsideration of the OLD NESHAP and several petitions for judicial review filed with the United States Court of Appeals for the District of Columbia Circuit, and pursuant to a settlement agreement between some of the parties to the litigation, EPA proposed amendments to subpart EEEE on November 14, 2005 (70 CFR 69210). EPA received comments from four entities. On July 28, 2006 (71 FR 42898), EPA promulgated amendments to subpart EEEE based on consideration of the comments received on the proposed amendments.

II. Summary of These Final Rule Amendments

Under these final rule amendments, the following changes or clarifications are being promulgated.

- Removing the requirement that owners and operators must obtain prior approval from the Administrator to use total organic compounds (TOC) as a surrogate for hazardous air pollutants (HAP) when demonstrating compliance with the percent emission reduction requirements for combustion devices.
- Clarifying that demonstration of initial compliance for storage tanks that elect to comply with either the vapor balancing work practice requirement or the routing of emissions to a fuel gas system or back to a process work practice requirement must be made by April 25, 2011, and not 10 years after February 3, 2004. We retain the requirement that compliance must occur prior to the specified date or the first degassing, whichever occur earlier.
- Clarifying that the continuous compliance requirements for the

monitoring of a transfer rack system using vapor balancing is for all points in the system that may leak and that monitoring is not required in any quarter in which loading does not occur.

These final rule amendments also correct several format, grammatical, and typographical errors which occur in Table 2 (item 9.b.ii), Table 5 (item 1.b), Table 6 (item 1), Table 7 (item 1.a.i, item 1.c.i, and item 2.a.i), and § 63.2343(d).

III. Rationale for These Final Rule Amendments

A. Use of TOC as a Surrogate for HAP When Demonstrating Compliance With Percent Emission Reduction

Section 63.2354(b) of the NESHAP specifies that you must comply with various requirements of 40 CFR part 63, subpart SS for performance testing provisions, including § 63.997(e). Additionally, § 63.2346(f) specifies that if you elect to demonstrate compliance with the percent reduction requirements using TOC rather than organic HAP, you must first demonstrate, subject to approval of the Administrator, that TOC is an appropriate surrogate for organic HAP. This requirement was intended to address circumstances under which a device such as a condenser could achieve substantively different results from one compound to another. Under these conditions, an inlet and outlet percent control determination for TOC might not be equivalent to a similar determination for each or total HAP. Since promulgation, we have received questions on whether the requirement to first demonstrate that TOC is an appropriate surrogate for organic HAP is necessary for a combustion device. When organic compounds are controlled by combustion processes, the organic compounds emitted at the outlet of the device are not the same as those entering the inlet to the device and are typically unknown. Further, unlike non-combustion devices, combustion devices achieve a greater uniformity of destruction across all organic HAP compounds. Therefore, we have determined that the requirement to first demonstrate that TOC is an appropriate surrogate for organic HAP is unwarranted for combustion devices and have modified paragraph (f) of 40 CFR 63.2346 to make this requirement applicable only to non-combustion devices.

B. Compliance Date and Initial Demonstration of Compliance for Storage Tanks Using Vapor Balancing or Routing Emissions Back to a Process or a Fuel Gas System

Section 63.2342 identifies when an owner or operator must comply with the requirements of subpart EEEEE, while § 63.2358 identifies the dates by which an owner or operator must demonstrate initial compliance. As discussed below, there is an inconsistency in these two sections of the rule as they apply to storage tanks for which vapor balancing or routing of emissions to a fuel gas system or back to a process are used to comply with the rule.

Paragraph (b)(1) of § 63.2342 states that owners or operators of existing affected sources must be in compliance with the emission limitations, operating limits, and work practice standards for existing sources by February 5, 2007, except as specified in § 63.2342(b)(2). Paragraph (b)(2) states that "floating roof tanks at existing affected sources must be in compliance with the work practice standards in Table 4 to this subpart, item 1, at all times after the next degassing and cleaning activity or within 10 years after February 3, 2004, whichever occurs first. If the first degassing and cleaning activity occurs during the 3 years following February 3, 2004, the compliance date is February 5, 2007."

With regards to demonstrating initial compliance, paragraph (c)(1) of § 63.2358 states that "for storage tanks at existing affected sources complying with the work practice standard 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 10 years after February 3, 2004." The work practice standards in Table 4 for storage tanks at existing facilities are:

- Comply with the requirements of 40 CFR part 63, subpart WW (control level 2), which addressed the use of floating roofs;
- Comply with the requirements of § 63.984 for routing emissions to a fuel gas system or back to a process; and
- Comply with the requirements of § 63.2346(a)(4) for vapor balancing emissions to the transport vehicle from which the storage tank is filled.

As stated in the July 28, 2006, **Federal Register** in response to a public comment (71 FR 42899), the technical basis for allowing demonstration of initial compliance up to 10 years after February 3, 2004, applies only to storage tanks with floating roofs and not to storage tanks with fixed roofs. EPA, in both the February 3, 2004 rulemaking promulgating 40 CFR part 63, subpart EEEE, and in the July 28, 2006 rulemaking promulgating amendments to 40 CFR part 63, subpart EEEE, inadvertently failed to revise § 63.2358 to reflect its intent to apply the "up to 10 years" compliance provision to only the "floating roof" work practice standard.

As the current regulation stands, owners and operators seeking to comply with the work practice standards for storage tanks would have "up to 10 years" to demonstrate initial compliance if they elect to comply by routing the emissions to a fuel gas system or back to a process or by using a vapor balancing system. This was never EPA's intent for these two types of work practice standards. EPA points out that these same types of work practice standards are allowed for transfer racks, and the rule is unambiguous that demonstration of initial compliance is required within 180 days after the compliance date of February 3, 2007.

To correct this oversight, EPA is clarifying that the "up to 10-year" demonstration of initial compliance date applies only when a floating roof is used to comply with 40 CFR part 63, subpart EEEE, and inserting the actual date "February 3, 2014" into the rule text. In addition, the intended compliance date has past (180 days after the compliance date of February 3, 2007) to demonstrate initial compliance if they elect to route storage tank emissions to a fuel system or back to a process or to use vapor balancing. Because facilities will need time to plan and install equipment and affected sources had up to 3 years to comply with the original rule, we are specifying the compliance date for routing storage tank emissions to a fuel gas system or back to a process or to use vapor balancing to be 3 years from this notice. However, we retain and still require compliance by "the next time the storage tank is emptied and degassed, but not later than" 3 years from this notice.

C. Monitoring of Vapor Balancing System Components With the Potential To Leak

Table 10 to 40 CFR part 63, subpart EEEE addresses continuous compliance requirements, in part, for vapor balancing systems when used for transfer racks and storage tanks. EPA has received a question concerning the relationship between the continuous compliance requirements for vapor balancing systems and those for equipment leak components.

For vapor balancing systems, there are two places in 40 CFR part 63, subpart EEEE that identify compliance requirements—Table 10 and § 63.2346(a)(4)(v). As found in item 4.b.i to Table 10, the continuous compliance requirement for a transfer rack using a vapor balancing system reads:

"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 subpart EEEE, 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."

Paragraph (a)(4)(v) of § 63.2346 identifies leak detection and repair (LDAR) requirements for pressure relief devices used in vapor balancing systems. The current rule language is, at best, ambiguous as to the relationship of this paragraph and the language in Table 10.

For equipment leak components, which are defined in 40 CFR part 63, subpart EEEE as pumps, valves, and sampling connections, the owner or operator selects one of three 40 CFR part 63 subparts, as specified in item 4 of Table 4. These three subparts identify LDAR provisions that are to be applied to pumps, valves, and sampling connections.

To clarify the intended relationship between these various provisions, the phrase "each potential source of vapor leakage" is intended to apply to any and all equipment in the vapor balancing system that may leak, including, but not limited to pumps, valves, and sampling connections. For all such equipment, the owner or operator is to apply the applicable provisions found in the equipment leak standard selected by the owner or operator to comply with the equipment leak components. This could mean that an owner or operator may be applying LDAR requirements found in the selected 40 CFR part 63 subpart for components other than a pump, valve, or sampling connection. If the vapor balancing system has a pressure relief valve, however, the owner or operator would comply with the LDAR provisions for pressure relief valves found in § 63.2346(a)(4)(v). For equipment leak components (as defined in 40 CFR part 63, subpart EEEE) that are not part of a vapor balancing system, continuous compliance is demonstrated as specified in item 5 to Table 10.

To clarify these relationships, EPA is revising item 4.b.i in Table 10 or 40 CFR part 63, subpart EEEE to read as follows:

"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 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. For pressure relief devices, comply with § 63.2346(a)(4)(v). If no loading of a transport vehicle or filling of a container occurs during a quarter, then monitoring of the vapor balancing system is not required."

Finally, item 6.b.i to Table 10 of 40 CFR part 63, subpart EEEE addresses the same vapor balancing system monitoring requirements, but for storage tanks. EPA is making the same changes as in item 4.b.i to Table 10. EPA is also making one additional change. As the rule currently reads, item 6.b.i refers to "monitoring each potential source of vapor leakage in the system quarterly during the loading of a transport vehicle or the filling of a container." This item should be referring to the loading of a storage tank and not the loading of a transport vehicle or the filling or a container. Therefore, EPA is also correcting this incorrect reference.

D. Format, Grammatical, and Typographical Errors

1. In Table 2, item 9.b.ii or 40 CFR part 63, subpart EEEE should have been placed on a separate line rather than on the same line as the end of item 9.b.i. For clarity, item 9.b.ii has been reformatted so that it starts on its own line.

2. In Table 5 of 40 CFR part 63, subpart EEEE, the first two columns associated with item b. were incorrectly placed under the headings "According to * * *" and "Using * * *". They should have been placed under the headings, respectively, "You must conduct * * *" and "According to * * *".

3. In Table 6, item 1 of 40 CFR part 63, subpart EEEE, the first column cross-references items 1 through 6 in Table 2. The sentence, therefore, should refer to "meeting *any* set of tank capacity and liquid organic HAP vapor pressure criteria" rather to "meeting *either* set."

4. In Table 6 of 40 CFR part 63, subpart EEEE, the second column of item 1 states, in part, "or as an option for combustion devices to an exhaust concentration of ≤20 ppmv." The word "nonflare" was inadvertently omitted from this sentence. This sentence is revised to read, in part, "or as an option for nonflare combustion devices to an exhaust concentration of ≤20 ppmv." This makes the sentence consistent with the other items in Table 6.

5. In Table 7 of 40 CFR part 63, subpart EEEE, three typographical errors are being corrected from the July 28, 2006, FR notice. In item 1.a.i, "perform" was misspelled as "perofrm.". In item 1.c.i, the cross-reference was incorrectly identified as § 3.2346(a)(4); the correct cross-reference is § 63.2346(a)(4). In item 2.a.i, "primary" was misspelled as "priamry."

6. Section 63.2343(d) currently reads: "If one or more of the events identified in paragraphs (d)(1) through (4) of this section occur since the filing of the Notification of Compliance Status or the last Compliance report, you must submit a subsequent Compliance report as specified in paragraphs (b)(3) and (c)(3) of this section." The cross-references to paragraphs (b)(3) and (c)(3) are incorrect. The correct cross-references are paragraphs (b)(2) and (c)(2). The direct final rule makes this correction.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The final amendments clarify, but do not add requirements increasing the collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 63, subpart EEEE under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0539. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare

a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule amendments on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The final rule amendments will not impose any new requirements on small entities, and, therefore, will have no significant adverse economic impact on subject small entities. The Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that these final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. These final rule amendments clarify certain provisions and correct typographical errors in the rule text for a rule EPA determined not to include a Federal mandate that may result in an estimated cost of $100 million or more (69 FR 5061, February 3, 2004). These clarifications do not change the level or cost of the standard, except, in some cases, reduce the cost of testing for combustion control devices at some facilities using that option. Thus, these final rule amendments are not subject to the requirements of section 202 and 205 of the UMRA. EPA has determined that these final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments. These final rule amendments clarify certain provisions and correct typographical errors in the rule text, thus, should not affect small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

These final rule amendments do not have federalism implications. They 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, as specified in Executive Order 13132. They provide clarification and correct typographical errors. These changes do not modify existing or create new responsibilities among EPA Regional Offices, States, or local enforcement agencies. Thus, Executive Order 13132 does not apply to these final rule amendments.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." These final rule amendments do not have tribal implications, as specified in Executive Order 13175. They 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. Thus, Executive Order 13175 does not apply to these final rule amendments.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

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

These final rule amendments are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note)

directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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

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.

EPA has determined that these final rule amendments 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. These final rule amendments do not relax the control measures on sources regulated by the rule and, therefore, will not cause emissions increases from these sources.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing the final rule amendments and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rule amendments in the **Federal Register**. A major rule 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). These final rule amendments will be effective on July 22, 2008.

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.

Dated: April 16, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

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

Subpart EEEE—[Amended]

■ 2. Section 63.2343 is amended by revising paragraph (d) introductory text to read as follows:

§ 63.2343 What are my requirements for emission sources not requiring control?

* * * * *

(d) If one or more of the events identified in paragraphs (d)(1) through (4) of this section occur since the filing of the Notification of Compliance Status or the last Compliance report, you must submit a subsequent Compliance report as specified in paragraphs (b)(2) and (c)(2) of this section.

* * * * *

■ 3. Section 63.2346 is amended by revising paragraph (f) to read as follows:

§ 63.2346 What emission limitations, operating limits, and work practice standards must I meet?

* * * * *

(f) For noncombustion devices, if you elect to demonstrate compliance with a percent reduction requirement in Table 2 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.

* * * * *

■ 4. Section 63.2358 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 63.2358 By what date must I conduct performance tests and other initial compliance demonstrations?

* * * * *

(b)(1) For storage tanks and transfer racks at existing affected sources complying with the emission limitations listed in Table 2 to this subpart or with the work practice standards in items 1.b or 1.c in Table 4 to this subpart, you must demonstrate initial compliance with the emission limitations the next time the storage tank is emptied and degassed, but not later than April 25, 2011.

* * * * *

(c)(1) For storage tanks at existing affected sources complying with the work practice standard in 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 February 3, 2014.

* * * * *

■ 5. Table 2 to Subpart EEEE of Part 63 is amended by revising entry 9. to read as follows:

* * * * *

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS

If you own or operate . . .	And if . . .	Then you must . . .
* *	* * *	* *
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.

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS—Continued

If you own or operate . . .	And if . . .	Then you must . . .
	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 of 40 CFR part 63, Subpart PP—National Emission Standards for Containers, Container Level 3 controls; 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.
* * * * * * *		

■ 6. Table 5 to Subpart EEEE of Part 63 is amended by revising entry 1. to read as follows:

* * * * *

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS

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.	a. A performance test to determine the organic HAP (or, upon approval, 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) EPA 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) EPA Method 2, 2A, 2C, 2D, or 2F in appendix A–1 of 40 CFR part 60, or EPA 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) EPA Method 3 or 3B in appendix A–2 of 40 CFR part 60, as appropriate.	(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) EPA 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.

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS—Continued

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
			(5) EPA Method 18 in appendix A–6 of 40 CFR part 60, or EPA Method 25 or 25A in appendix A–7 of 40 CFR part 60, as appropriate, or EPA Method 316 in appendix A of 40 CFR part 63 for measuring formaldehyde.	(A) Total organic HAP (or, upon approval, TOC), or formaldehyde emissions.	(i) The organic HAP used for the calibration gas for EPA 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 total organic HAP (or, upon approval, TOC) emissions are reduced by the required weight-percent or, as an option for nonflare combustion devices, to 20 ppmv exhaust concentration.
	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
*	*	*	*	*	*

■ 7. Table 6 to Subpart EEEE of Part 63 is amended by revising entry 1. to read as follows:

* * * * *

TABLE 6 TO SUBPART EEEE OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS

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.	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.
* * * * * * *		

■ 8. Table 7 to Subpart EEEE of Part 63 is amended by revising entries 1. and 2. 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.	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.
* * * * * * *		

■ 9. Table 10 to Subpart EEEE of Part 63 is amended by revising entries 4. and 6. to read as follows:

* * * * *

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
* * * * * * *		
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.

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
	b. Install and, during the loading of 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 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. For pressure relief devices, comply with § 63.2346(a)(4)(v). If no loading of a transport vehicle or filling of a container occurs during a quarter, then monitoring of the vapor balancing system is not required.
	c. Route emissions to a fuel gas system or back to a process.	i. Continuing to meet the requirements specified in § 63.984(b).
* *	* * *	* *
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.	a. Route emissions to a fuel gas system or back to the process.	i. Continuing to meet the requirements specified in § 63.984(b).
	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 transport vehicle or filling of a container occurs during a quarter, then monitoring of the vapor balancing system is not required.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007-0872; FRL–8360–4]

Cyazofamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of cyazofamid and its metabloite CCIM in or on carrot, roots. Interregional Research Project Number 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective April 23, 2008. Objections and requests for hearings must be received on or before June 23, 2008, 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: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0872. To access the electronic docket, go to *http://www.regulations.gov*, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. 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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants"

Type of Rule: ___X__ Legislative _____Interpretive _____Procedural

Agency: Division of Air Quality

Address: 601 57th Street SE

Charleston, WV 25304

FILED IN THE OFFICE OF THE SECRETARY OF STATE
THIS DATE 7/11/08
ADMINISTRATIVE LAW DIVISION

Phone Number: 926-0475 Email: tmowrer@wvdep.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No impact above that resulting from currently applicable federal emission standards.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR

Effect of Proposal	2009 Increase/Decrease (use "-")	2010 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	$ 0	$ 0	$ 0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Equipment	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: 45CSR34 - "Emission Standards for Hazardous Air Pollutants"

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

Costs anticipated to be incurred in the implementation of federal rules promulgated under 40 CFR Parts 61 and 63 as of June 1, 2008 are included in prior cost estimates prepared for state implementation of Title V of the Clean Air Act, as amended, under 45CSR30. Full Title V program approval was issued by the U.S. Environmental Protection Agency on November 19, 2001.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 7/11/08

Signature of Agency Head